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ONTARIO

The Corporations Act

The Corporations Information Act

The Mortmain and Charitable Uses Act

and

The Corporation Securities Registration Act

1964

TORONTO

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Statutes
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The Corporations Act

Revised Statutes of Ontario, 1960

CHAPTER 71

as amended by

1960-61, Chapter 13; 1961-62, Chapter 21;
1962-63, Chapter 24, and 1964, Chapter 10



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The Corporations Act

R.S.O. 1960, CHAPTER 71

as amended by

1960-61, Chapter 13; 1961-62, Chapter 21;

1962-63, Chapter 24, and 1964, Chapter 10

1. In this Act,

Interpre-
tation

- (a) "books" includes loose-leaf books where reasonable precautions are taken against the misuse of them;
- (b) "company" means a corporation with share capital;
- (c) "corporation" means a corporation with or without share capital, but in Part III "corporation" means a corporation without share capital;
- (d) "court" means the Supreme Court or the county or district court of the county or district in which the head office of the corporation is situate;
- (e) "officer" means president, chairman of the board of directors, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, manager or any other person designated an officer by by-law of the corporation;
- (f) "private company" means a company as to which by its special Act, letters patent or supplementary letters patent,
 - (i) the right to transfer its shares is restricted,
 - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
 - (iii) any invitation to the public to subscribe for its shares or securities is prohibited;
- (g) "public company" means a company that is not a private company;
- (h) "registers" includes loose-leaf registers where reasonable precautions are taken against the misuse of them;

- (i) "securities" means the bonds, debentures, debenture stock or other like liabilities of a corporation whether constituting a charge on its property or not;
- (j) "special resolution" means a resolution passed by the directors and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of the shareholders or members of the corporation duly called for that purpose, or, in lieu of such confirmation, by the consent in writing of all the shareholders or members entitled to vote at such meeting. R.S.O. 1960, c. 71, s. 1.

PART I

CORPORATIONS, INCORPORATION AND NAME

Application

2. This Part, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 2.

R.S.O. 1960,
c. 222

Incorporation by
letters
patent

3.—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than three, of twenty-one or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway and incline railway and street railway corporations and corporations within the meaning of *The Loan and Trust Corporations Act*. R.S.O. 1960, c. 71, s. 3 (1).

(1a) Notwithstanding subsection 1, where the objects for which the corporation is to be incorporated are in whole or in part of a social nature, the number of applicants shall be not fewer than ten. 1962-63, c. 24, s. 1.

Social
clubs

(2) Notwithstanding subsection 1, a private company may be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, or with power to accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders shall be limited by its letters patent or supplementary letters patent to five, and no such company shall issue securities except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit. R.S.O. 1960, c. 222.

Incorporation of
private
company
with limited
objects

4. The Lieutenant Governor may in his discretion issue supplementary letters patent to any corporation that applies therefor amending or otherwise altering or modifying its letters patent or prior supplementary letters patent. R.S.O. 1960, c. 71, s. 4.

Supplement-
ary letters
patent

5. The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant Governor, but not those conferred on the Lieutenant Governor in Council. R.S.O. 1960, c. 71, s. 5.

Powers of
Provincial
Secretary

6. An applicant under this Act shall establish to the satisfaction of the Provincial Secretary the sufficiency of the application and all documents filed therewith and shall furnish such evidence of the *bona fides* of the application as the Provincial Secretary deems proper. R.S.O. 1960, c. 71, s. 6.

Sufficiency
of material
to be
established

7. The Provincial Secretary or any person in his department to whom an application is referred may take evidence under oath with respect thereto. R.S.O. 1960, c. 71, s. 7.

Proof under
oath

8. On an application for letters patent, supplementary letters patent or an order, the Lieutenant Governor may give the corporation a name different from its proposed or existing name, may vary the objects or other provisions of the application and may impose such conditions as he deems proper. R.S.O. 1960, c. 71, s. 8.

Variation
of terms
of applica-
tion

Defects in
form not
to invalidate
letters
patent

9. The provisions of this Act relating to matters preliminary to the issue of letters patent or supplementary letters patent or an order are directory only, and no letters patent or supplementary letters patent or order are void or voidable on account of any irregularity or insufficiency in any matter preliminary to the issue thereof. R.S.O. 1960, c. 71, s. 9.

Notice of
issue of
letters
patent

10. The Provincial Secretary shall cause notice of the issue of letters patent, supplementary letters patent or an order to be given forthwith in *The Ontario Gazette*. R.S.O. 1960, c. 71, s. 10.

Commence-
ment of
existence

11. A corporation comes into existence on the date of the letters patent incorporating it. 1961-62, c. 21, s. 1.

Corporate
name

12.—(1) A corporation shall not be given a name,

(a) that is the same as or similar to the name of a known corporation, association, partnership, individual or business if its use would be likely to deceive, except where the corporation, association, partnership, individual or person signifies its or his consent in writing that its or his name in whole or in part be granted, and, if required by the Provincial Secretary,

(i) in the case of a corporation, undertakes to dissolve or change its name within six months after the incorporation of the new corporation, or

(ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name, within six months after the incorporation of the new corporation;

(b) that suggests or implies a connection with the Crown or any member of the Royal Family or the Government of Canada or the government of any province of Canada or any department, branch, bureau, service, agency or activity of any such government without the consent in writing of the appropriate authority;

(c) that, when the objects applied for are of a political nature, suggests or implies a connection with a political party or a leader of a political party;

(d) that includes the word "co-operative" or any abbreviation or derivation thereof unless the corporation is subject to Part V; or

(e) that is objectionable on any public grounds.

(2) If a corporation through inadvertence or otherwise has been or is given a name that is objectionable, the Lieutenant Governor, after he has given notice to the corporation of his intention so to do, may direct the issue of supplementary letters patent changing the name of the corporation to some other name. Change of name if objectionable

(3) A person who feels aggrieved as a result of the giving of a name under subsection 1 or the changing or refusing to change a name under subsection 2 may, upon at least seven days notice to the Provincial Secretary and to such other persons as the court directs, apply to the court for a review of the matter, and the court may make an order changing the name of the corporation to such name as it deems proper or may dismiss the application. Reference to court

(4) A copy of an order made under subsection 3, certified under the seal of the court, shall be filed with the Provincial Secretary by the corporation within ten days after it is made. Filing

(5) A corporation that fails to comply with subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 12. Offence

13. A change in the name of a corporation does not affect its rights or obligations. R.S.O. 1960, c. 71, s. 13. Change not to affect rights, etc.

14. A person, partnership or association that trades or carries on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof is used, unless incorporated, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 14. Unauthorized use of "Limited", etc.

15. The Provincial Secretary may on the application in writing of any person and on the payment of a fee of \$2 reserve a corporate name for the use and benefit of the applicant or his nominee for a period of sixty days or such lesser period as he specifies. R.S.O. 1960, c. 71, s. 15. Reservation of name

Notice of
name

16. A person, partnership or association may notify the Provincial Secretary of the name under which his or its business or undertaking is carried on and thereupon the Provincial Secretary shall make a notation thereof in his records. R.S.O. 1960, c. 71, s. 16.

PART II

COMPANIES

Application

17. This Part, except where it is otherwise expressly provided, applies,

- (a) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every company incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a company, incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 17.

R.S.O. 1960,
c. 222

Application
for incor-
poration

18.—(1) The applicants for incorporation of a company shall file with the Lieutenant Governor an application showing:

- 1. The names in full, the place of residence and the calling of each of the applicants.
- 2. The name of the company to be incorporated.
- 3. The objects for which the company is to be incorporated.
- 4. The place in Ontario where the head office of the company is to be situate.

5. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
6. Where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
7. Where the company is to be a private company, a statement to that effect and the restrictions to be placed on the transfer of its shares.
8. The names of the applicants who are to be the first directors of the company.
9. The class and number of shares to be taken by each applicant and the amount to be paid therefor.
10. Any other matters that the applicants desire to have included in the letters patent.

(2) The applicants may ask to have included in the letters patent any provision that could be the subject of a by-law of the company. Idem R.S.O. 1960, c. 71, s. 18.

19. Upon incorporation of a company, each applicant becomes a shareholder holding the class and number of shares stated in the application to be taken by him and is liable to the company for the amount to be paid therefor. Original shareholders R.S.O. 1960, c. 71, s. 19.

20.—(1) The name of a company shall have the word "Limited" as the last word thereof, but a company may use the abbreviation "Ltd." for "Limited" and may be referred to in the same manner. Use of word "Limited"

(2) This section does not apply to insurers incorporated under Part VI. Not applicable to insurers R.S.O. 1960, c. 71, s. 20.

21.—(1) Where a company or a director, officer or employee thereof uses the name of the company, the word "Limited", or the abbreviation "Ltd.", shall appear as the last word thereof. Use of name

- Exception** (2) Stamping, writing, printing or otherwise marking on goods, wares and merchandise of the company or upon packages containing the same shall not be deemed a use of the name within the meaning of subsection 1.
- Idem** (3) A private company shall have the words "private company" on its seal.
- Offence** (4) A company that contravenes any requirement of this section and every director, officer or employee of the company who authorizes, permits or acquiesces in any such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 21.
- Use of name** **21a.** Notwithstanding subsection 1 of section 20 and section 21, a company may use its name in such form and in such language as the letters patent or supplementary letters patent provide. 1964, c. 10, s. 1.
- Incidental powers** **22.—(1)** A company possesses, as incidental and ancillary to the objects set out in the letters patent or supplementary letters patent, power,
- (a) to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
 - (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the company is authorized to carry on;
 - (c) to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;
 - (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction that the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares

and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same;

- (e) to take or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as to benefit the company;
- (f) to enter into arrangements with any public authority that seem conducive to the company's objects and obtain from any such authority any rights, privileges or concessions;
- (g) to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the company or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
- (h) to promote any company for the purpose of acquiring or taking over any of the property and liabilities of the company, or for any other purpose that may benefit the company;
- (i) to purchase, lease or take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the company may think necessary or convenient for the purposes of its business;
- (j) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches, sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the company's interests, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (k) to raise and assist in raising money for, and to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or company with whom or

which the company may have business relations or any of whose shares, securities or other obligations are held by the company and to guarantee the performance or fulfilment of any contracts or obligations of any such person or company, and in particular to guarantee the payment of the principal of and interest on securities, mortgages and liabilities of any such person or company;

- (l) to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
- (m) to sell, lease, exchange or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company thinks fit, and in particular for shares or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by a special resolution;
- (n) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the company in the ordinary course of its business;
- (o) to adopt such means of making known the products of the company as seems expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes and rewards or making donations;
- (p) to cause the company to be registered and recognized in any foreign country or province or territory of Canada, and to designate persons therein according to the laws of such foreign country or province or territory to represent the company and to accept service for and on behalf of the company of any process or suit;
- (q) to allot and issue fully-paid shares of the company in payment or part payment of any property purchased or otherwise acquired by the company or for any past services rendered to the company;
- (r) to distribute among the shareholders of the company in money, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other

manner deemed advisable, any property of the company, but no such distribution shall decrease the capital of the company unless made in accordance with this Act;

- (s) to pay all costs and expenses of or incidental to the incorporation and organization of the company;
- (t) to invest and deal with the moneys of the company not immediately required for its objects in such manner as may be determined;
- (u) to do any of the above things and all things authorized by the letters patent and supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (v) to do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the letters patent and supplementary letters patent.

(2) Any of the powers set out in subsection 1 may be withheld or limited by the letters patent or supplementary letters patent. R.S.O. 1960, c. 71, s. 22. Powers may be withheld

23.—(1) Except as provided in subsection 2, a company shall not make loans to any of its shareholders or directors or give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase made or to be made by any person of any shares of the company. Loans to shareholders and directors

(2) A company may,

Exceptions

- (a) make loans to any of its shareholders or directors in the ordinary course of its business where the making of loans is part of the ordinary business of the company; or
- (b) make loans to *bona fide* full-time employees of the company whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may take from such employees mortgages or other securities for the repayment of such loans; or
- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase

by trustees of fully-paid shares of the company, to be held by or for the benefit of *bona fide* employees of the company, whether or not they are shareholders or directors; or

(d) make loans to *bona fide* employees of the company, other than directors, whether or not they are shareholders, with a view to enabling them to purchase fully-paid shares of the company to be held by them by way of beneficial ownership; or

(e) if it is a private company, make loans to any of its shareholders or directors with a view to enabling them to purchase issued shares of the company.

By by-law
only

(3) The power mentioned in clause *b, c, d* or *e* of subsection 2 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering the by-law.

Liability of
directors

(4) Every director and officer of a company making or assenting to a loan in contravention of this section is, until repayment of the loan, jointly and severally liable to the company and to its creditors for the debts of the company then existing or thereafter contracted to the amount of the loan with interest at the rate of 5 per cent per annum. R.S.O. 1960, c. 71, s. 23.

Authorized
capital

24.—(1) The authorized capital of a company shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

Par
shares

(2) Where the shares of a company are with par value, its authorized capital shall be expressed in dollars, pounds, francs or other currency in the letters patent or supplementary letters patent and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof.

No par or
no par
shares

(3) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its authorized capital shall be expressed as a specified number of shares in the letters patent or supplementary letters patent.

Considera-
tion for
no par
shares

(4) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, the letters patent or supplementary letters

patent may provide that each share without par value or the shares of each class of shares without par value are not to be issued for a consideration exceeding in amount or value a stated amount in dollars, pounds, francs or other currency, and the letters patent or supplementary letters patent may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the company deems expedient on payment to the Treasurer of Ontario of the fees payable on such greater amount and on the issuance by the Provincial Secretary of a certificate of such payment. R.S.O. 1960, c. 71, s. 24.

25. Each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1960, c. 71, s. 25. ^{Nature of shares}

26.—(1) If a company has more than one class of shares, one class shall be common shares designated as such and the other class or classes shall be preference shares howsoever designated. ^{More than one class of shares}

(2) Subsection 1 does not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 26. ^{Application}

27.—(1) If a company has more than one class of shares, the letters patent or supplementary letters patent shall provide that the preference shares of a class confer upon the holders thereof a preference or right over the holders of shares of another class, either preference or common, and such preference or right, without limiting the nature thereof, may be in respect of dividends, repayment of capital, the right to elect part of the board of directors or the right to convert such shares into shares of another class or other classes of shares or into securities. ^{Preference shares}

(2) The letters patent or supplementary letters patent of a company may provide that the preference shares of a class may have attached thereto conditions, restrictions, limitations or prohibitions including, but without limiting the nature thereof, the right of the company to purchase for cancellation or at its option to redeem all or part of the shares of that class or conditions, restrictions, limitations or prohibitions on the right to vote. ^{Conditions, etc.}

(3) If the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, any preference shares of a class may be redeemed by the company at the request of a holder or of a number or proportion of such holders. ^{Redemption by share-holders}

No-par
preference
shares not
to be
redeemed

(4) Preference shares without par value do not have a preference in respect of the repayment of capital and are not subject to redemption or purchase for cancellation.

Redemption
of par value
preference
shares

(5) Where preference shares with par value are to be redeemed, they shall be redeemed at the amount paid up thereon, but, if the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, a premium, unpaid dividends or other stated amount may be paid.

Redemption
at actual
value

(6) Notwithstanding subsection 5, if the letters patent or supplementary letters patent so provide, the preference shares of a class may be redeemed out of money set aside in a fund for such purpose at a price as near as may be to the actual value thereof, and the method of determining such actual value shall be set out in the letters patent or supplementary letters patent. R.S.O. 1960, c. 71, s. 27 (1-6).

Redemption
of part

(7) Where the preference shares of a class are made redeemable by the letters patent or supplementary letters patent and where at any time some but not all of such shares are to be redeemed, the shares to be redeemed shall, except as provided in subsections 8 and 9, be selected by lot in such manner as the board of directors determines or as nearly as may be in proportion to the number of shares registered in the name of each shareholder. R.S.O. 1960, c. 71, s. 27 (7); 1961-62, c. 21, s. 2.

Redemption
of all or
part

(8) Where at least 95 per cent of the holders of the preference shares of a class holding at least 95 per cent of the issued shares of such class consent in writing and where, after twenty-one days notice has been given by sending the notice to each of the holders of shares of such class to his last address as shown on the books of the company, none of the holders of shares of such class dissents in writing to the company, the company may redeem all or any of such shares in such manner as the board of directors determines.

Redemption
of preference
shares of
private
company

(9) Where a holder of preference shares of a private company dies or leaves its employment, it may within one year of such event redeem all or any of the preference shares held by the deceased shareholder or former employee.

Power to
withhold

(10) The letters patent or supplementary letters patent of a company may withhold any of the powers set out in subsection 7, 8 or 9.

(11) Where the letters patent or supplementary letters patent provide that the preference shares may be purchased for cancellation by the company, the company may purchase some or all of such shares at the lowest price at which, in the opinion of the directors, such shares are obtainable, but not exceeding the amount paid up thereon; but, if the letters patent or supplementary letters patent so provide, a premium, unpaid dividends or other stated amount may be paid.

(12) Preference shares shall not be redeemed or purchased for cancellation by the company if the company is insolvent or if the redemption or purchase would render the company insolvent.

(13) Where preference shares are redeemed or purchased for cancellation by the company, they shall be thereby cancelled, and the authorized and the issued capital of the company shall be thereby decreased.

(14) Where preference shares are converted into the same or another number of shares of another class or classes, whether preference or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted and the number of shares of each class affected by the conversion is changed accordingly.

(15) Where preference shares are converted into another class or other classes of shares, the issued capital of the company shall not be increased or decreased by the conversion.

(16) Subsections 1, 4, 7, 8, 9 and 11 do not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 27 (8-16).

28.—(1) The letters patent or supplementary letters patent of a company may authorize the issue from time to time in one or more series of the preference shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of such class.

(2) The shares of all series of the same class of preference shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote.

Dividends

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of preference shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full.

Conditions precedent to issue

(4) No shares of any series of a class of preference shares shall be issued until supplementary letters patent have been issued setting forth the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series except in the case of the first series if such designation, preferences, rights, conditions, restrictions, limitations or prohibitions have been set forth in the letters patent or prior supplementary letters patent.

Issue of supplementary letters patent

(5) The Lieutenant Governor may issue such supplementary letters patent on the application of the company authorized by a resolution of the directors fixing the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series and the filing with the Provincial Secretary of evidence of the due compliance with the conditions, if any, contained in the letters patent or in any prior supplementary letters patent, precedent to the creation and issue of the shares of such series. R.S.O. 1960, c. 71, s. 28.

Voting rights

29.—(1) Subject to subsection 2 of section 27, every holder of a preference share or a common share is entitled to one vote for each preference share or each common share held by him at all meetings of the shareholders of the company, but this subsection does not apply to shares authorized before the 30th day of April, 1954.

Votes

(2) The letters patent or supplementary letters patent may provide for a greater number of votes for each share of a class or classes at all times or on the happening of a stated event. R.S.O. 1960, c. 71, s. 29.

Issued capital, par value shares

30.—(1) Where the shares of a company are with par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof.

No par value shares, etc.

(2) Where the shares of a company are without par value or where part of its shares are with par value and part are

without par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the company may be transferred thereto.

(3) Nothing in subsection 2 affects the capital of a company ^{Idem} in respect of shares without par value issued before the 30th day of April, 1954, if the letters patent or the supplementary letters patent of the company provide that the capital is to be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars, pounds, francs or other currency in respect of every issued share without par value plus such amounts as from time to time by by-law of the company may be transferred thereto.

(4) Where before the 30th day of April, 1954, a company ^{Idem} has set aside part of the consideration received upon the allotment and issue of shares without par value as distributable surplus, the amount of such distributable surplus does not form part of its issued capital. R.S.O. 1960, c. 71, s. 30.

31.—(1) In the absence of a provision to the contrary in ^{Issue of shares} the letters patent, supplementary letters patent or by-laws of the company, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine.

(2) Shares with par value shall not be allotted and issued ^{Consideration, par value shares} as fully paid except for a consideration payable in cash at least equal to the product of the number of shares allotted and issued multiplied by the par value thereof or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

(3) Shares without par value may be allotted and issued ^{Consideration, no par shares} for such consideration as is fixed by the directors acting in good faith and in the best interests of the company.

(4) Shares without par value shall not be allotted and issued ^{Idem} as fully paid except for the consideration fixed by the directors as aforesaid payable in cash to the total amount of the consideration so fixed or for a consideration payable directly or indirectly in property or past services which the directors in

good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Holders not
liable to
creditors,
etc.

(5) Shares allotted and issued in accordance with this section shall be fully paid and non-assessable upon receipt by the company of the consideration for the allotment and issue thereof, and upon such receipt the holders of such shares are not liable to the company or to its creditors in respect thereof. R.S.O. 1960, c. 71, s. 31.

Commission
on sale of
shares

32.—(1) The directors may pass by-laws for the payment of commissions to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional for such shares, but no such commission shall exceed 25 per cent of the amount of the subscription.

Commission
by-laws to
be con-
firmed

(2) No by-law passed under subsection 1 is effective until it is confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it.

No
unauthorized
commissions

(3) Except as provided in subsection 1, no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise. R.S.O. 1960, c. 71, s. 32.

Supple-
mentary
letters
patent

33.—(1) A company may apply to the Lieutenant Governor for the issue of supplementary letters patent,

- (a) extending, limiting or otherwise varying its objects;
- (b) changing its name;
- (c) increasing its authorized capital;
- (d) decreasing,
 - (i) its authorized capital by cancelling issued or unissued shares with or without par value or by reducing the par value of issued or unissued shares, or

- (ii) its issued capital, if it has shares without par value,

and, where it has more capital than it requires, authorizing the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;

- (e) redividing its authorized capital into shares of lesser or greater par value;
- (f) consolidating or subdividing any of its shares without par value;
- (g) changing any of its shares with par value into shares without par value;
- (h) changing any of its shares without par value into shares with par value;
- (i) reclassifying any shares with or without par value into shares of a different class;
- (j) varying any provision in its letters patent or prior supplementary letters patent;
- (k) providing for any other matter or thing in respect of which provision may be made in letters patent under this Act;
- (l) converting it into a public company;
- (m) making it subject to Part IV;
- (n) making it not subject to Part IV;
- (o) converting it into a private company;
- (p) converting it into a corporation without share capital;
- (q) converting it into a corporation, with or without share capital, subject to Part V;
- (r) making it not subject to Part V.

(2) An application under clauses *a* to *n* of subsection 1 ^{Authori-} shall be authorized by a special resolution. ^{zation}

Idem

(3) An application under clauses *o* to *r* of subsection 1 shall be authorized by a resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the shareholders; or

(b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each shareholder to his last address as shown on the books of the company and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the company.

Additional
authori-
zation for
variation of
rights of
preference
shareholders

(4) If the application is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, then, subject to subsection 5 and in addition to the authorization required by subsection 2, the application shall not be made until the application has been authorized in writing,

(a) by 100 per cent of the holders of the shares of such class or classes of shares; or

(b) by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes,

but, in the case of authorization under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each of the holders of shares of such class or classes to his last address as shown on the books of the company and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the company.

Idem

(5) If the letters patent or supplementary letters patent so provide, the authorization required by subsection 4 may be given by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose.

Exception

(6) Where letters patent or supplementary letters patent issued before the 30th day of April, 1954, provide for an authorization for an application for supplementary letters patent to delete or vary a preference, right, condition, restriction,

limitation or prohibition attaching to preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, such authorization is effective, and subsections 4 and 5 do not apply.

(7) An application under subsection 1 may be made only ^{Time of application} within six months after the resolution has been confirmed by the shareholders.

(8) Subsection 4 does not apply to an arrangement under ^{Exception} section 95.

(9) This section does not apply to a company incorporated ^{Special Act corporations excepted} by special Act, except that a company incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1960, c. 71, s. 33.

34. On an application for supplementary letters patent ^{Reduction of capital} decreasing authorized or issued capital, the company shall establish to the satisfaction of the Provincial Secretary that after the decrease the company will be solvent and, if required by the Provincial Secretary, shall establish to his satisfaction that there are no creditors who object to the application. R.S.O. 1960, c. 71, s. 34.

35. Where issued shares without par value are cancelled, ^{Decrease of issued capital} the issued capital is thereby decreased by an amount equal to the total of the products of the average consideration for which the shares of each such class were issued multiplied by the number of shares cancelled of each such class, respectively. R.S.O. 1960, c. 71, s. 35.

36.—(1) On a decrease of the issued capital of a company ^{Liability on decrease of issued capital} by supplementary letters patent, each person who was a shareholder on the date of the supplementary letters patent is individually liable to the creditors of the company for the debts due on that date to an amount not exceeding the amount of the repayment to him or reduction of his liability, or both, as the case may be.

(2) A person is not liable under subsection 1, ^{Limitation of liability}

- (a) unless the company has been sued for the debt within six months after the date of the supplementary letters patent and execution has been returned unsatisfied in whole or in part; and
- (b) unless he is sued for the debt within two years from the date of the supplementary letters patent.

Idem

(3) After execution has been so returned, the amount due on the execution, not exceeding the amount of the repayment to the person or the reduction of his liability, is the amount recoverable against such person.

Class actions

(4) Where it is made to appear that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders as may be found, and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Shareholder
holding
shares in
fiduciary
capacity

(5) No person holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee, who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust, is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. R.S.O. 1960, c. 71, s. 36.

Fractional
shares

37.—(1) A person entitled to a fraction of a share is not entitled to be registered on the books of the company in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction and, on presentation at the head office of the company, or at a place designated by the company, of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor and the person in whose name such certificate is issued shall be registered on the books of the company as the holder of such share.

Transfer

(2) Such a bearer fractional certificate is transferable by delivery.

Purchase by
company

(3) For the purpose of consolidating fractions of shares into whole shares, a company may purchase fractions of shares and, if it does so, it shall sell forthwith the whole shares resulting from the consolidation. R.S.O. 1960, c. 71, s. 37.

Shares
deemed
personal
estate

38. The shares of a company shall be deemed to be personal estate. R.S.O. 1960, c. 71, s. 38.

39.—(1) The shares of a company are transferable on the books of the company subject to such conditions and restrictions as this Act, the special Act, the letters patent or supplementary letters patent prescribe. Transfer of shares

(2) Subject to subsection 3, no by-law shall be passed that in any way restricts the right of a holder of fully-paid shares to transfer them, but by-laws may be passed regulating the method of their transfer. Transfer by-laws

(3) Except in the case of shares listed on a recognized stock exchange, where the letters patent, supplementary letters patent or by-laws so provide, the directors may refuse to permit the registration of a transfer of fully-paid shares registered in the name of a shareholder who is indebted to the company. R.S.O. 1960, c. 71, s. 39. Where shareholder indebted to company

40. Every company shall cause to be kept a register of transfers in which all transfers of shares and the date and other particulars of each transfer shall be set out. R.S.O. 1960, c. 71, s. 40. Register of transfers

41. A company may appoint a transfer agent to keep the register of shareholders and the register of transfers and may also appoint one or more branch transfer agents to keep branch registers of shareholders and branch registers of transfers. R.S.O. 1960, c. 71, s. 41. Transfer agents

42.—(1) The register of shareholders and the register of transfers shall be kept at the head office of the company or at such other office or place in Ontario as is appointed by resolution of the directors, and the branch register or registers of shareholders and the branch register or registers of transfers may be kept at such office or offices of the company or other place or places, either in or outside Ontario, as are appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a share of the company in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

(3) In each branch register of transfers shall be recorded only the particulars of the transfers of shares registered in that branch register of transfers. Entry in branch transfer register

(4) Particulars of every transfer of shares registered in every branch register of transfers shall be recorded in the register of transfers. Entry in register of transfers

Closing of
register of
transfers

(5) The directors of a company may by resolution close the register of transfers and the branch register or registers of transfers, if any, for a period of time not exceeding forty-eight hours, exclusive of Saturdays and holidays, immediately preceding any meeting of the shareholders, and notice of every such closing shall be given in a newspaper published in the place where the register of transfers is kept and in a newspaper published in each place in which a branch register of transfers is kept. R.S.O. 1960, c. 71, s. 42.

Share
certifi-
cates

43.—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the company's by-laws in that regard, but the company is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons and delivery of a share certificate to one of several joint shareholders is sufficient delivery to all.

Evidence

(2) A share certificate is *prima facie* evidence of the title of the shareholder to the shares represented thereby.

Fee

(3) A company may charge a fee of not more than 50 cents for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. R.S.O. 1960, c. 71, s. 43.

Lost
certifi-
cates

44. Where a share certificate is defaced, destroyed or lost, a new certificate may be issued in its place on payment of such fee, if any, not exceeding \$1 and on such terms, if any, as to evidence and indemnity as the directors determine. R.S.O. 1960, c. 71, s. 44.

Contents
of share
certifi-
cates

45.—(1) Every share certificate,

- (a) shall bear upon its face the name of the company, the words "Incorporated in the Province of Ontario" or words of like effect and a statement of its authorized capital; and
- (b) shall state the number and class of shares represented thereby and whether the shares are with par value or without par value and, if partly paid, the amount paid up thereon or that the shares are fully paid, as the case may be; and
- (c) if it represents preference shares, shall state thereon in legible characters the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the class of preference shares to which it belongs; and

- (d) if it represents shares of a private company, shall bear upon its face the words "Private Company".

(2) Where some but not all of the preference shares of a class are converted, redeemed or purchased for cancellation, it is unnecessary for the company to change the statement of its authorized capital on its share certificates. R.S.O. 1960, c. 71, s. 45. Exception

46. A share certificate shall be signed manually by at least one officer of the company or by or on behalf of a transfer agent or branch transfer agent of the company, and the company may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. R.S.O. 1960, c. 71, s. 46. Signing of share certificates

47.—(1) A company is not bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share. Trusts

(2) The receipt of the shareholder in whose name the share is registered on the books of the company is a valid and binding discharge to the company for any payment made in respect of such share whether notice of such trust has been given to the company or not. Discharge

(3) The company is not bound to see to the application of the money paid upon such receipt. Application of money paid

(4) The written authorization of an executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as holding shares in any such capacity is sufficient justification for the company to register a transfer of such shares, including a transfer into the name of such executor, administrator, committee of a mentally incompetent person, guardian or trustee absolutely. R.S.O. 1960, c. 71, s. 47. Authority to transfer

48.—(1) A public company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions respecting share warrants therein contained, may, with respect to any fully-paid shares, issue under the seal of the company a share warrant stating that the bearer of it is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of future dividends on the share or shares specified in the share warrant. Share warrants

Entry of
share
warrant
in company
books

(2) On the issue of a share warrant, the company shall remove from its books the name of the shareholder then entered thereon as holding such share or shares as if he had ceased to be a shareholder and shall enter in such books the following particulars:

1. The fact of the issue of the share warrant.
2. A statement of the shares specified in the share warrant.
3. The date of the issue of the share warrant.

Transfer

(3) A share warrant entitles the bearer thereof to the shares therein specified and the shares may be transferred by delivery of the warrant.

Bearer of
share war-
rant deemed
shareholder

(4) The bearer of a share warrant shall be deemed to be a shareholder of the company, except that he is not entitled to receive notice of meetings or a copy of any financial statement or auditor's report and is not qualified in respect of shares specified in the share warrant to be a director of the company.

Voting
rights

(5) Upon presentation of a share warrant at a meeting of shareholders, its bearer is entitled to attend the meeting and vote the shares specified in it.

Certificate

(6) For the purpose of subsection 5, the expression "share warrant" includes a certificate or other document satisfactory to the company to the effect that its bearer is the holder of a share warrant in respect of the shares specified in the certificate or other document.

Exchange
of warrant
for regis-
tration
as share-
holder

(7) The bearer of a share warrant is, subject to the provisions respecting share warrants contained in the letters patent or supplementary letters patent, entitled, on surrendering it for cancellation, to have the shares specified in it registered in his name on the books of the company, and the company is responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares specified in it without the warrant being surrendered and cancelled.

Surrender
of share
warrant

(8) Upon the surrender of a share warrant for cancellation, the date of the surrender shall be entered in the books of the company. R.S.O. 1960, c. 71, s. 48.

49.—(1) No transfer of shares, unless made by sale under an execution or under a decree, order or judgment of a court of competent jurisdiction, is valid for any purpose whatsoever until registration thereof has been duly made in the register of transfers or in a branch register of transfers of the company, save only as exhibiting the rights of the parties thereto towards each other and, if absolute, of rendering any transferee jointly and severally liable with the transferor to the company and to its creditors.

Transfers
valid only
after
registra-
tion

(2) Notwithstanding subsection 1, where fully-paid shares are listed on a recognized stock exchange at the time of the delivery of a certificate for such shares with a duly executed instrument of transfer endorsed thereon or accompanying it, such delivery constitutes a valid transfer of the shares represented by such certificate, but, until registration of such transfer is duly made in the register of transfers or in a branch register of transfers of the company, the company may treat the person in whose name the shares represented by such certificate are registered on the books of the company as being solely entitled to receive notice of and vote at meetings of shareholders and receive any payments in respect of such shares whether by way of dividends or otherwise.

Exception

(3) A power of attorney contained in a duly executed instrument of transfer endorsed on or accompanying a share certificate delivered for value before the death of the transferor is not revoked by the death of the transferor but is valid and effectual subject to the conditions or restrictions, if any, contained therein. R.S.O. 1960, c. 71, s. 49.

Power of
attorney
not revoked
by death

50.—(1) The directors may refuse to permit the registration of a transfer of shares on the books of the company for the purpose of notifying the person registered thereon as owner of such shares of the application for such registration, and in that event the company shall forthwith give notice to such person of such application.

Notice to
owner

(2) The owner may within seven days after the giving of such notice lodge a caveat against the registration of the transfer and thereupon the registration of the transfer shall not be made for a period of forty-eight hours.

Owner may
lodge caveat

(3) If within one week after the giving of such notice or the expiration of such period of forty-eight hours, whichever last expires, no order of a competent court enjoining the registration of the transfer has been served upon the company, the transfer may be registered.

Transfer
may be
registered if
no order
served

Liability of
company

(4) Where a transfer of shares is registered after the proceedings mentioned in this section, the company is not liable in respect of such shares to a person whose rights are purported to be transferred, but nothing in this subsection prejudices any claim the transferor may have against the transferee. R.S.O. 1960, c. 71, s. 50.

Where con-
sent of
directors
to transfer
required

51.—(1) No registration of a transfer of shares that are not fully paid shall be made without the consent of the directors and of the transferee and, subject to subsection 4, where such registration is made with the consent of the directors, the transferor is not liable to the company or to its creditors for the amount unpaid on such shares.

Directors'
liability

(2) Subject to subsection 3, where registration is made with the consent of the directors of a transfer of shares that are not fully paid to a person whom the directors have reason to believe is not of sufficient means to pay fully for such shares, the directors are jointly and severally liable to the company and to its creditors in the same manner and to the same extent as the transferor would have been liable if the registration had not been made.

Relief from
liability

(3) If a director, present when such consent to registration is given, forthwith, or, if a director then absent, within seven days after he becomes aware of such consent, delivers to an officer of the company his written protest against such consent and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Provincial Secretary, such director thereby and not otherwise exonerates himself from liability under subsection 2.

Liability
where call
remains
unpaid

(4) Where the transfer of a share upon which a call is unpaid is registered with the consent of the directors and of the transferee, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor also remains liable for the call until it is paid. R.S.O. 1960, c. 71, s. 51.

Transmis-
sion of
deceased
shareholder's
shares

R.S.O. 1960,
c. 386

52. Where upon the death of a holder of any shares or securities of a company a transmission thereof takes place to or title to or control thereof vests or is claimed to vest in any person, herein called "the successor", then, subject to *The Succession Duty Act*, the company is justified in permitting or consenting to the registration thereof in the name of the successor on the company's books or in paying

the principal amount thereof or any dividend or interest thereon to the successor,

- (a) if the successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, upon production of the same or an authenticated copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof; or
- (b) if the successor claims by virtue of the laws of any jurisdiction in which any such transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, upon production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or
- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the shares or securities is less than \$300, upon proof thereof to the reasonable satisfaction of the company,

together with, in any such event, production and deposit by the successor of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be.
R.S.O. 1960, c. 71, s. 52.

53.—(1) The directors may by resolution call in and by notice thereof in writing demand from the shareholders the whole or any part of the amount unpaid on shares held by them at such times and places and in such payments or instalments as this Act, the special Act, the letters patent, the supplementary letters patent, the by-laws or the terms of allotment and issue of such shares require or allow.

(2) The demand shall state that, in the event of the call not being paid in accordance with the demand, the shares in respect of which the call was made will be liable to be forfeited.

(3) If a shareholder fails to pay a call due by him on or before the day appointed for the payment thereof, he is liable to pay interest on the amount thereof at the rate of 5 per cent per annum from the day appointed for payment to the time of payment.

Forfeiture of shares (4) In the event of the call not being paid in accordance with the demand, the directors may forfeit any shares on which the call is not paid.

Sale of forfeited shares (5) Any forfeited shares become the property of the company upon the forfeiture, and, subject to its by-laws, may be sold.

Continuing liability (6) Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture continues liable to the company and to its creditors for the full amount unpaid on such shares at the time of forfeiture, less any sums that are subsequently received by the company in respect thereof.

Refund of excess on sale (7) Where the company receives on the sale of forfeited shares an amount in excess of the amount then unpaid on such shares, the excess amount shall be paid to the person whose shares were forfeited.

Recovery of calls by suit (8) The directors may, instead of forfeiting any shares, enforce payment of all calls and interest thereon by action in a court of competent jurisdiction. R.S.O. 1960, c. 71, s. 53.

Right to receive uncalled moneys **54.** The directors may receive at any time from a shareholder all or any part of the moneys uncalled and unpaid upon shares held by him. R.S.O. 1960, c. 71, s. 54.

Shareholder's liability limited **55.—**(1) A shareholder shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares.

Shareholder's liability (2) A shareholder, until the whole amount has been paid up on his shares, is liable to the creditors of the company to an amount equal to that unpaid thereon, but he is not liable to an action therefor by a creditor until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part.

Amount recoverable (3) The amount due on such execution, not exceeding the amount unpaid on his shares, is the amount recoverable from such shareholder and, when so recovered, shall be considered as paid on his shares

Set-off (4) A shareholder may plead by way of defence, in whole or in part, to any such action by a creditor any set-off that he could set up against the company except a claim for unpaid dividends or a salary or allowance as a director or officer of the company. R.S.O. 1960, c. 71, s. 55.

Trustees, etc., not personally liable **56.—**(1) No executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and

therein described as representing in any such capacity a named estate, person or trust is personally liable in respect of the shares that he so represents.

(2) The estate, person or trust so represented is liable as if the testator, intestate, mentally incompetent person, ward or *cestui que trust* were registered on the books of the company as the holder of the shares. Liability of estate, etc.

(3) If the testator, intestate, mentally incompetent person, ward or *cestui que trust* so represented is not named on the books of the company, the executor, administrator, committee, guardian or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1960, c. 71, s. 56. Where trustee, etc., liable

57.—(1) The word “mortgagee”, as used in subsection 2, includes a trustee for holders of securities. Interpretation

(2) No mortgagee of a share of a company and no person holding such a share as collateral security who is registered on the books of the company as the holder of such share and therein described as representing in either of such capacities a named mortgagor or person giving such collateral security is personally liable in respect of such share that he so represents, but the mortgagor or other person giving such collateral security is liable as if he were registered on the books of the company as the holder of such share. R.S.O. 1960, c. 71, s. 57. Mortgagee not personally liable

58.—(1) The directors may pass by-laws, Borrowing powers

(a) for borrowing money on the credit of the company; or

(b) for issuing, selling or pledging securities of the company; or

(c) for charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the company, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the company. R.S.O. 1960, c. 71, s. 58 (1).

(1a) The expression “property of the company” in subsection 1 and in every predecessor thereof includes and has included always both present and future property of the company. 1961-62, c. 21, s. 3. Interpretation

(2) No by-law passed under subsection 1 is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it. R.S.O. 1960, c. 71, s. 58 (2). Borrowing by-laws to be confirmed

Irredeemable
securities

59. A condition contained in a security or in a deed for securing a security is not invalid by reason only that the security is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1960, c. 71, s. 59.

Duplicate
to be
filed

60.—(1) A duplicate original, or a copy certified under the seal of the company, of any charge, mortgage or other instrument of hypothecation or pledge made by the company to secure its securities shall be filed forthwith in the office of the Provincial Secretary.

Exception

R.S.O. 1960,
c. 70

(2) Subsection 1 does not apply to a charge or mortgage filed with the Provincial Secretary under *The Corporation Securities Registration Act* or any other Act. R.S.O. 1960, c. 71, s. 60.

Power to
declare
dividends

61.—(1) Subject to the special Act, letters patent or supplementary letters patent of the company, the directors may declare and the company may pay dividends on the issued shares of the company.

Manner of
payment

(2) A dividend may be paid in money or in specie or in kind not exceeding in value the amount of the dividend.

When
dividend
not to be
declared

(3) The directors shall not declare and the company shall not pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or that diminishes its capital, and, if any dividend or bonus is declared and paid contrary to this subsection, the directors are jointly and severally liable to the company for the amount of the dividend so declared and paid or such part thereof as renders the company insolvent or diminishes its capital.

Relief from
liability

(4) If a director, present when any such dividend or bonus is declared, forthwith, or, if a director then absent, within seven days after he becomes aware of such declaration, delivers to an officer of the company his written protest against such declaration and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Provincial Secretary, such director thereby and not otherwise exonerates himself from liability under subsection 3.

Companies
with
wasting
assets

(5) Nothing in this section prevents a mining company or a company whose assets are of a wasting character, or a company incorporated for the object of acquiring and administering the assets or a substantial part of the assets of another corporation, either from such corporation or from the assign of such corporation, for the purpose of converting such

assets into money and distributing the money among the shareholders of the company, from declaring and paying dividends out of funds derived from the operations of the company.

(6) The powers conferred by subsection 5 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the issued capital of the company if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the company exclusive of its issued capital. Extent of impairment of capital

(7) Subject to subsection 8, the powers conferred by subsection 5 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering it. Where confirmed by-law required

(8) Where dividends have been paid by a company in any of the cases mentioned in subsection 5 without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed by the directors and confirmed by the shareholders in the manner mentioned in subsection 7. R.S.O. 1960, c. 71, s. 61. Idem

62. For the amount of any dividend that the directors may declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or may credit the amount of such dividend on shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. R.S.O. 1960, c. 71, s. 62. Stock dividends

63. The directors, upon declaring a dividend, may direct that no transfer of shares shall be registered on the books of the company for a stated period, not exceeding two weeks, immediately preceding the payment of the dividend, and payment thereof shall be made to the shareholders of record on the date of closing the books. R.S.O. 1960, c. 71, s. 63. Closing transfer registers

64.—(1) The letters patent, supplementary letters patent or by-laws of a company may provide that every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit, and that, where he has voted for more than one candidate without specifying the Cumulative voting for directors

distribution of his votes among such candidates, he shall be deemed to have divided his votes equally among the candidates for whom he voted.

Co-ops
R.S.O. 1960,
c. 79 (2) This section does not apply to companies to which Part V applies or to companies to which *The Credit Unions Act* applies. R.S.O. 1960, c. 71, s. 64.

Removal of
directors **65.** Where the letters patent, supplementary letters patent or by-laws of a company provide for the election of directors by cumulative voting under section 64, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term, but that no director shall be removed where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. R.S.O. 1960, c. 71, s. 65.

Idem **66.**—(1) Where the letters patent, supplementary letters patent or by-laws of a company do not provide for cumulative voting under section 64, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term.

Exception (2) Subsection 1 does not affect the operation of any provision respecting the removal of directors in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 66.

By-laws **67.**—(1) The directors may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue of share certificates, the forfeiture of shares for non-payment, the sale of forfeited shares, the transfer and the registration of transfers of shares;

- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the company and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the shareholders and of the board of directors, the quorum at meetings of shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;
- (g) the conduct in all other particulars of the affairs of the company.

(2) A by-law passed under subsection 1 and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the shareholders duly called for that purpose, is effective only until the next annual meeting of the shareholders unless confirmed thereat and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the shareholders. Confirmation

(3) The shareholders may at the general meeting or the annual meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law shall be prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1960, c. 71, s. 67. Rejection,
etc.

68. No by-law for the payment of the president as president or of any director as a director is effective until it has been confirmed at a general meeting of the shareholders duly called for that purpose. R.S.O. 1960, c. 71, s. 68. Payment of
president
and
directors

69.—(1) Where the number of directors on the board of directors of a company is more than six, the directors may pass a by-law authorizing them to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors. Executive
committee

- Confirmation** (2) The by-law is not effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose.
- Quorum** (3) An executive committee may fix its quorum at not less than a majority of its members. R.S.O. 1960, c. 71, s. 69.
- Disclosure by directors of interests in contracts** **70.**—(1) Every director of a company who is in any way directly or indirectly interested in a proposed contract or a contract with the company shall declare his interest at a meeting of the directors of the company.
- Time of declaration** (2) In the case of a proposed contract, the declaration required by this section shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director is not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he becomes so interested, and, in a case where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes so interested.
- General notice** (3) For the purposes of this section, a general notice given to the directors of a company by a director to the effect that he is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.
- Effect of declaration** (4) If a director has made a declaration of his interest in a proposed contract or contract in compliance with this section and has not voted in respect of the contract, he is not accountable to the company or to any of its shareholders or creditors for any profit realized from the contract, and the contract is not voidable by reason only of his holding that office or of the fiduciary relationship established thereby.
- Confirmation by shareholders** (5) Notwithstanding anything in this section, a director is not accountable to the company or to any of its shareholders or creditors for any profit realized from such contract and the contract is not by reason only of his interest therein voidable if it is confirmed by a majority of the votes cast at a general meeting of the shareholders duly called for that purpose and

if his interest in the contract is declared in the notice calling the meeting.

(6) If a director is liable in respect of profit realized from any such contract and the contract is by reason only of his interest therein voidable, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 70. Offence

71.—(1) Upon the filing of a requisition to that effect, signed by at least one shareholder of a public company holding shares representing at least 1 per cent of the issued capital of the company, each director shall make a return to the company to be presented at the next annual meeting stating the number and class of shares of the company acquired or disposed of by him, directly or indirectly, since the last annual meeting of the company or the incorporation of the company where no annual meeting has been held, giving the date of acquisition or disposition in each case. Directors' returns of dealings and shares

(2) Such requisition shall be filed with the secretary of the company at least thirty days before the annual meeting at which the return is to be presented. Filing of requisition

(3) When notified that such requisition has been filed, each director shall file his return with the secretary of the company at least two days before the annual meeting at which the return is to be presented. Filing of return

(4) Every director who fails to make a return as required by this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 71. Offence

72. Every director of a company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the company, given at any meeting of the shareholders, from time to time and at all times, be indemnified and saved harmless out of the funds of the company, from and against, Director indemnified in suits respecting execution of his office

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and

- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default. R.S.O. 1960, c. 71, s. 72.

Liability
of directors
for wages

73.—(1) The directors of a company are jointly and severally liable to the clerks, labourers, servants, apprentices and other wage earners thereof for all debts due while they are directors for services performed for the company, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under *The Hours of Work and Vacations with Pay Act* and the regulations thereunder or under any collective agreement made by the company.

R.S.O. 1960,
c. 181

Limitation
of liability

- (2) A director is not liable under subsection 1,

- (a) unless the company has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part, or the company has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and the claim on the debt has been fully filed and proved; and

R.S.C. 1952,
c. 14

- (b) unless he is sued for the debt while a director or within six months after he ceases to be a director.

Idem

- (3) After execution has been so returned against the company, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Rights of
director
who pays
the debt

- (4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment.

Director
holding
shares in
fiduciary
capacity

- (5) No director holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all the liabilities imposed by this section. R.S.O. 1960, c. 71, s. 73.

74.—(1) Subject to subsections 2 and 3, the meetings of the shareholders, the board of directors and the executive committee shall be held at the place where the head office of the company is situate. ^{Place of meetings}

(2) Where the by-laws of the company so provide, the meetings of the board of directors and of the executive committee may be held at any place in or outside Ontario and the meetings of the shareholders may be held at any place in Ontario. ^{Exception}

(3) Where the letters patent or supplementary letters patent of the company so provide, the meetings of the shareholders may be held at one or more places outside Ontario designated therein. ^{Exception}

(4) This section does not affect the operation of any provision in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954, respecting the holding of the meetings of the shareholders at any place outside Ontario. R.S.O. 1960, c. 71, s. 74. ^{Where section not to apply}

75.—(1) Every shareholder, including a corporate shareholder, entitled to vote at meetings of shareholders may by instrument in writing appoint a proxy, who need not be a shareholder, to attend and act at the meeting in the same manner, to the same extent and with the same power as if the shareholder were present at the meeting. ^{Proxies}

(2) An instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney authorized in writing, or, if the appointor is a corporation, under the corporate seal or under the hand of an officer or attorney so authorized, and ceases to be valid one year from its date. ^{Execution}

(3) An instrument appointing a proxy shall contain the date thereof and the appointment and name of the proxy and may contain a revocation of a former instrument appointing a proxy, restrictions, limitations or instructions as to the manner in which the shares covered by the instrument are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a recognized stock exchange, or a restriction or limitation as to the number of shares covered by the instrument, but nothing else. ^{Contents}

(4) An instrument appointing a proxy may be revoked at any time by an instrument in writing under the hand of the appointor or of his attorney authorized in writing, or, if the ^{Revocation}

appointor is a corporation, under the corporate seal or under the hand of an officer or attorney so authorized, and written notice of the revocation shall be deposited at the head office of the company or with the chairman of any meeting at which the instrument appointing the proxy may be used and shall be served on the proxy either personally or by mail addressed to his last known address, and, upon either of such deposits and upon either personal service or the expiration of two days of mailing, the instrument appointing the proxy is revoked.

Deposit
of proxies

(5) The directors may by resolution fix a time, not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting of the shareholders before which time instruments appointing proxies to be used at that meeting must be deposited with the company, and any period of time so fixed shall be specified in the notice calling the meeting. R.S.O. 1960, c. 71, s. 75.

Unauthor-
ized voting

R.S.O. 1960,
c. 363

76.—(1) A company may by by-law provide that any person who is a broker, broker-dealer, sub-broker-dealer or salesman within the meaning of *The Securities Act* shall not vote in person at a shareholders' meeting or appoint a proxy to vote at such meeting in respect of shares unless he is the beneficial owner of such shares or unless he is authorized so to do by the beneficial owner of such shares.

Offence

(2) Every person who contravenes a by-law passed under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 or to imprisonment for a term of not more than three months, or to both.

Effect of
contraven-
tion

(3) No proceeding, matter or thing at a shareholders' meeting is void or voidable by reason only of a contravention of a by-law passed under subsection 1. R.S.O. 1960, c. 71, s. 76.

Trustees,
etc., may
vote

77. An executor, administrator, committee of a mentally incompetent person, guardian or trustee, and, where a corporation is such executor, administrator, committee, guardian or trustee of a testator, intestate, mentally incompetent person, ward or *cestui que trust*, any person duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the shareholders of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings and may vote accordingly as a shareholder unless in the instrument creating the mortgage or hypothec he has expressly empowered the holder of such mortgage or hypothec to vote thereon, in which case only such holder or his proxy may vote in respect of such shares. R.S.O. 1960, c. 71, s. 77.

78. If shares are held jointly by two or more persons, any one of them present at a meeting of the shareholders of the company may, in the absence of the other or others, vote thereon, but, if more than one of them are present or represented by proxy, they shall vote together on the shares jointly held. R.S.O. 1960, c. 71, s. 78.

79.—(1) Subject to subsection 2 and in the absence of other provisions in that behalf in the by-laws of the company,

- (a) notice of the time and place for holding a meeting of the shareholders shall, unless all the shareholders entitled to notice of the meeting have waived in writing the notice, be given by sending it to each shareholder entitled to notice of the meeting by pre-paid mail ten days or more before the date of the meeting to his last address as shown on the books of the company;
- (b) no shareholder in arrear in respect of any call is entitled to vote at a meeting;
- (c) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (d) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (e) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (f) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

- Notice** (2) Except in the case of a company to which Part V applies, the by-laws of the company shall not provide for fewer than ten days notice of meetings of shareholders and shall not provide that notice may be given otherwise than individually.
- Poll** (3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. R.S.O. 1960, c. 71, s. 79.
- Auditors** **80.**—(1) The shareholders of a company at their first general meeting shall appoint one or more auditors to hold office until the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.
- Idem** (2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the next annual meeting and, if an appointment is not so made, the auditor in office shall continue in office until a successor is appointed.
- Casual vacancy** (3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.
- Removal** (4) The shareholders may, by resolution passed by at least two-thirds of the votes cast at a general meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.
- Remuneration** (5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.
- Appointment by Provincial Secretary** (6) If for any reason no auditor is appointed, the Provincial Secretary may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the company for his or their services.
- Notice** (7) Notice of the appointment of an auditor shall be given in writing to him forthwith after the appointment is made. R.S.O. 1960, c. 71, s. 80.
- Qualification of auditor** **81.**—(1) Except as provided in subsection 2, no person shall be appointed as auditor of a company who is a director, officer or employee of that company or an affiliated company

or who is a partner, employer or employee of any such director, officer or employee. R.S.O. 1960, c. 71, s. 81 (1); 1962-63, c. 24, s. 2 (1).

(2) Upon the unanimous vote of the shareholders of a ^{Private companies} private company present or represented at the meeting at which the auditor is appointed, a director, officer or employee of that company or an affiliated company, or a partner, employer or employee of such director, officer or employee may be appointed as auditor of that company, if it is not a subsidiary company of a company incorporated by any legislative jurisdiction in Canada which is not a private company within the meaning of this Act. R.S.O. 1960, c. 71, s. 81 (2); 1962-63, c. 24, s. 2 (2).

(3) A person appointed as auditor under subsection 2 ^{Notice} shall indicate in his report to the shareholders on the annual financial statement of the company that he is a director, officer or employee of the company or a partner, employer or employee of such director, officer or employee. R.S.O. 1960, c. 71, s. 81 (3); 1962-63, c. 24, s. 2 (3).

82.—(1) The auditor shall make such examination as will ^{Annual audit} enable him to report to the shareholders as required under subsection 2. R.S.O. 1960, c. 71, s. 82 (1).

(2) The auditor shall make a report to the shareholders ^{Auditor's report} on the financial statement to be laid before the company at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the company and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. R.S.O. 1960, c. 71, s. 82 (2); 1964, c. 10, s. 2.

(3) The auditor in his report shall make such statements ^{Idem} as he considers necessary,

- (a) if the company's financial statement is not in agreement with its accounting records;
- (b) if the company's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

Right of
access, etc.

(4) The auditor of a company has right of access at all times to all records, documents, books, accounts and vouchers of the company and is entitled to require from the directors and officers of the company such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Auditor
may attend
share-
holders'
meetings

(5) The auditor of a company is entitled to attend any meeting of shareholders of the company and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. R.S.O. 1960, c. 71, s. 82 (3-5).

Information
to be laid
before
annual
meeting

83.—(1) The directors shall lay before each annual meeting of shareholders,

(a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting, or commencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,

(i) a statement of profit and loss for such period,

(ii) a statement of surplus for such period,

(iii) a balance sheet made up to the end of such period;

(b) the report of the auditor to the shareholders;

(c) such further information respecting the financial position of the company as the letters patent, supplementary letters patent or by-laws of the company require.

Contents of
financial
statement

(2) The statements referred to in the subclauses of clause *a* of subsection 1 shall comply with and be governed by sections 84 to 88, but it is not necessary to designate them the statement of profit and loss, statement of surplus and balance sheet.

Auditor's
report to be
read

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. R.S.O. 1960, c. 71, s. 83.

Statement
of profit
and loss

84.—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly

the results of the operations of the company for the period covered by the statement and so as to distinguish severally at least,

- (a) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;
- (b) income from investments in subsidiaries whose financial statements are not consolidated with those of the company;
- (c) income from investments in affiliated companies other than subsidiaries;
- (d) income from other investments;
- (e) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (f) provision for depreciation or obsolescence or depletion;
- (g) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (h) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense;
- (i) total remuneration of directors as such from the company and subsidiaries whose financial statements are consolidated with those of the company, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (j) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection 1, items of the nature^{Notes} described in clauses *f*, *g* and *i* of subsection 1 may be shown by way of note to the statement of profit and loss. R.S.O. 1960, c. 71, s. 84.

85.—(1) The statement of surplus shall be drawn up so^{Statement of surplus} as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

Contributed
surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
 - (a) the amount of surplus arising from the issue of shares or the reorganization of the company's issued capital, including *inter alia*,
 - (i) the amount of premiums received on the issue of shares at a premium,
 - (ii) the amount of surplus realized on the purchase for cancellation of shares; and
 - (b) donations of cash or other property by shareholders.
3. The balance of such surplus at the end of the financial period.

Earned
surplus

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:
 - i. The amount of the net profit or loss for the financial period.
 - ii. The amount of dividends declared on each class of shares.
 - iii. The amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period. R.S.O. 1960, c. 71, s. 85.

Balance
sheet

86.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the company as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the company from its directors, officers or shareholders, except debts of reasonable

amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.

3. Debts owing to the company, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the company.
4. Debts owing to the company, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the company, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the company, except those referred to in items 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Shares or securities of subsidiaries, stating the basis of valuation.
9. Shares or securities of affiliated companies other than subsidiaries, stating the basis of valuation.
10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and the disposition in the accounts of the company of any amounts added to or deducted from such assets on appraisal after the 30th day of April, 1954, and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off, (i) expenditures on account of future business; (ii) any expense incurred in connection with any issue of shares; (iii) any expense incurred in connection with any issue of securities, including any discount thereon; and (iv) any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible

assets and the amount, if any, by which the value of any such assets has been written up after the 30th day of April, 1954.

12. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 23.
13. Bank loans and overdrafts.
14. Debts owing by the company on loans from its directors, officers or shareholders.
15. Debts owing by the company to subsidiaries whether on account of a loan or otherwise.
16. Debts owing by the company to affiliated companies other than subsidiaries whether on account of a loan or otherwise.
17. Other debts owing by the company, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.
20. Deferred income.
21. Securities issued by the company, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
 - (b) where any shares have not been fully paid,

- (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
- (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

24. Contributed surplus.

25. Earned surplus.

26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

(2) Explanatory information or particulars of any item ^{Notes} mentioned in subsection 1 may be shown by way of note to the balance sheet. R.S.O. 1960, c. 71, s. 86.

87.—(1) There shall be stated by way of note to the ^{Notes to financial statement} financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period. R.S.O. 1960, c. 71, s. 87 (1).

(1a) For the purpose of subsection 1, a change in accounting ^{Change in accounting practice} principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though it did not have a material effect upon the profit or loss for the period. 1962-63, c. 24, s. 3 (1).

(2) Where applicable, the following matters shall be referred ^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the company.
3. Contractual obligations that will require abnormal expenditures in relation to the company's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.

4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the company, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
7. Any default of the company in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a company has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. The total remuneration of directors as such of a holding company from subsidiaries whose financial statements are not consolidated with those of the holding company, including all salaries, bonuses, fees, contributions to pension funds and other emoluments.
11. In the case of a holding company, the aggregate of any shares in, and the aggregate of any securities of, the holding company held by subsidiary companies whose financial statements are not consolidated with that of the holding company.
12. The amount of any loans by the company, or by a subsidiary company, otherwise than in the ordinary course of business, during the company's financial period, to the directors or officers of the company.
13. Any restriction by the letters patent, supplementary letters patent or by-laws of the company or by contract on the payment of dividends that is significant in the light of the company's financial position.
14. Any event or transaction, other than one in the normal course of business operations, between the

date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement. R.S.O. 1960, c. 71, s. 87 (2); 1962-63, c. 24, s. 3 (2).

(3) A note to a financial statement is a part of it. R.S.O. *Idem* 1960, c. 71, s. 87 (3).

88. Notwithstanding sections 84 to 87, it is not necessary to state in a financial statement any matter that in all the ^{Insignificant circumstances} circumstances is of relative insignificance. R.S.O. 1960, c. 71, s. 88.

89.—(1) A company, in this section referred to as “the holding company”, may include in the financial statement ^{Consolidated financial statement} to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form.

(2) Where the assets and liabilities and income and expense *Idem* of any one or more subsidiaries of the holding company are not so included in the financial statement of the holding company,

(a) the financial statement of the holding company shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding company,
- (ii) if there is only one such subsidiary, the amount of the holding company's proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,
- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,

- (iv) if there is only one such subsidiary, the amount of the holding company's proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of such subsidiary by the holding company to the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company,
 - (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the company's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding company, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
 - (c) true copies of the latest financial statement of such subsidiary or subsidiaries shall be kept on hand by the holding company at its head office and shall be open to inspection by the shareholders of the holding company on request during the normal business hours of the holding company, but the directors of the holding company may by resolution refuse the right of such inspection if such inspection is not in the public interest or would prejudice the holding

company or such subsidiary or subsidiaries, which resolution may, on the application of any such shareholder to the court, be set aside by the court;

- (d) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the financial statement of the holding company for the holding company's proportion,
- (i) where there is only one such subsidiary, of the loss of such subsidiary suffered since acquisition of its shares by the holding company, or
 - (ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. R.S.O. 1960, c. 71, s. 89.

90.—(1) For the purposes of this Act, a company shall be deemed to be a subsidiary of another company if, but only if, ^{Definitions:}
Subsidiary company

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more companies each of which is controlled by that other, or
 - (iii) two or more companies each of which is controlled by that other; or
- (b) it is a subsidiary of a company that is that other's subsidiary.

(2) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary. ^{Holding company}

(3) For the purposes of this Act, one company shall be deemed to be affiliated with another company if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person. ^{Affiliated company}

(4) For the purposes of this section, a company shall be deemed to be controlled by another company or person or by two or more companies if, but only if, ^{Control}

- (a) shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other company or person or by or for the benefit of such other companies; and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company. R.S.O. 1960, c. 71, s. 90.

Reserves

91. In a financial statement, the term "reserve" shall be used to describe only,

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the company for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. R.S.O. 1960, c. 71, s. 91.

Approval of financial statement

92. The financial statement shall be approved by the board of directors, such approval to be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign, and the auditor's report shall be attached to the financial statement or there shall be inserted at the foot of the balance sheet a reference to the report. R.S.O. 1960, c. 71, s. 92.

Mailing of financial statement to shareholders

93.—(1) A public company, other than a company to which Part V applies, shall, ten days or more before the date of the annual meeting, send by prepaid mail to each shareholder at his last address as shown on the books of the company a copy of the financial statement and a copy of the auditor's report.

(2) A shareholder of a private company is entitled to be furnished by the company on demand with a copy of the documents mentioned in subsection 1. Financial statement, private companies

(3) A company that fails to comply with subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the company who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 93. Offence

94.—(1) Except in the cases mentioned in this section, a company shall not be a shareholder of a company that is its holding company, and any allotment or transfer of shares of a company to its subsidiary company is void. Subsidiaries not to hold shares of holding companies

(2) This section does not apply to a subsidiary holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. Application

(3) This section does not prevent a subsidiary that on the 30th day of April, 1954, held shares of its holding company from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding company or at meetings of any class of shareholders thereof. Exception

(4) Subject to subsection 2, subsections 1 and 3 apply in relation to a nominee for a company that is a subsidiary as if the references in subsections 1 and 3 to such a company included references to a nominee for it. R.S.O. 1960, c. 71, s. 94. Nominees

95.—(1) In this section, “arrangement” includes a reorganization of the authorized capital of a company and includes, without limiting the generality of the foregoing, the consolidation of shares of different classes, the reclassification of shares of a class into shares of another class and the variation of the terms, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class, and includes a reconstruction under which a company transfers or sells or proposes to transfer or to sell to another company the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of shares or securities of the other company and in which it proposes to distribute a Interpretation

part of such consideration among its shareholders of any class or to cease carrying on its undertaking or the part of its undertaking so transferred or sold or so proposed to be transferred or sold.

Arrange-
ments

(2) Where an arrangement is proposed between a company and its shareholders or a class or classes of them affecting the rights of such shareholders or class or classes under the company's letters patent or supplementary letters patent or by-laws, the court may, on application of the company or of a shareholder, order a meeting of the shareholders of the company or of the class or classes affected, as the case may be, to be held on twenty-one days notice, or such shorter time as the court directs, served in such manner as the court directs.

Contents
of notice
calling
meeting

(3) Where a meeting of the shareholders or of any class or classes of shareholders is called under subsection 2, the notice calling the meeting shall contain a statement explaining the effect of the arrangement and in particular stating any interest of the directors of the company, whether as directors or as shareholders of the company or otherwise, and the effect thereon of the arrangement, in so far as it is different from the effect on the like interest of other persons.

Sanction by
court

(4) If the shareholders of the company or of the class or classes affected, as the case may be, present in person or by proxy at the meeting, agree by at least three-fourths of the shares of each class represented to the arrangement either as proposed or as varied at the meeting, the arrangement may be sanctioned by the court and, if so sanctioned, the arrangement and any decrease or increase in the authorized capital and any provisions for the allotment or disposition thereof by sale or otherwise as therein set forth may be confirmed by supplementary letters patent and thereupon is binding on the company and on the shareholders of the company or on the class or classes of shareholders affected.

Notice to
dissenters

(5) If dissenting votes are cast at the meeting and, notwithstanding such dissenting votes, the arrangement is agreed to by the shareholders or the class or classes represented in accordance with subsection 4 and unless the court in its discretion otherwise orders, the company shall notify each dissenting shareholder in such manner as the court directs of the time and place when application will be made to it for the sanction of the arrangement. R.S.O. 1960, c. 71, s. 95.

96.—(1) Any two or more companies, including a holding and subsidiary company, having the same or similar objects may amalgamate and continue as one company. Amalgamation

(2) The companies proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect and stating the name of the amalgamated company, the names, callings and places of residence of the first directors thereof and how and when the subsequent directors are to be elected with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated company, the authorized capital of the amalgamated company and the manner of converting the authorized capital of each of the companies into that of the amalgamated company. Agreement

(3) The agreement shall be submitted to the shareholders of each of the amalgamating companies at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating companies under the corporate seal thereof. Adoption by shareholders

(4) If the agreement is adopted in accordance with subsection 3, the amalgamating companies may apply jointly to the Lieutenant Governor for letters patent confirming the agreement and amalgamating the companies so applying, and on and from the date of the letters patent such companies are amalgamated and are continued as one company by the name in the letters patent provided, and the amalgamated company possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating companies. Joint application for letters patent
R.S.O. 1960, c. 71, s. 96.

97.—(1) Where a company has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing in money, kind, specie or otherwise the property of the company or any part of it rateably among the shareholders according to their rights and interests in the company. Distribution of assets where winding up protracted

(2) The by-law is not effective until it has been confirmed by two-thirds of the votes cast at a meeting of the shareholders Confirmation

duly called for considering the by-law nor until it has been confirmed by the Lieutenant Governor in Council. R.S.O. 1960, c. 71, s. 97.

Private
companies
contraven-
ing privi-
leges, etc.

98.—(1) If a private company contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, it ceases to be entitled to the privileges and exemptions conferred on private companies under this Act and under *The Corporations Information Act*, and thereupon this Act and that Act apply to the company as if it were not a private company.

R.S.O. 1960,
c. 72

Relief

(2) The court, on being satisfied that any such contravention was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as the court deems proper, order that the company be relieved from the consequences mentioned in subsection 1.

Offence

(3) In addition to the consequences mentioned in subsection 1, every private company that contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, and every director or officer of the company who authorizes, permits or acquiesces in any such contravention, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 98.

Private
company,
rights of
dissenting
share-
holders

99.—(1) If, in the case of a private company, at a meeting of shareholders,

- (a) a resolution passed by the directors authorizing the sale or disposition of the undertaking of the company or any part thereof as an entirety or substantially as an entirety is confirmed with or without variation by the shareholders; or
- (b) a resolution passed by the directors authorizing an application for the issue of supplementary letters patent providing for the conversion of the company into a public company is confirmed with or without variation by the shareholders; or

- (c) an agreement for the amalgamation of the company with one or more other companies, whether public or private, is confirmed by the shareholders,

any shareholder who has voted against the confirmation of such resolution or agreement, as the case may be, may within two days after the date of the meeting give notice in writing to the company requiring it to purchase his shares.

(2) Within ninety days from the date of the completion of the sale or disposition or the issue of the supplementary letters patent or the letters patent, as the case may be, the company shall purchase the shares of every shareholder who has given notice under subsection 1. Company bound to purchase shares

(3) The company shall not purchase any shares under sub-section 2 if it is insolvent or if such purchase would render the company insolvent. Saving

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the company and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder. Price of shares

(5) Any shares purchased under subsection 2 shall not be cancelled by reason only of such purchase, and may be sold by the company at such price and on such terms as the directors determine. Sale of shares

(6) If the sale or disposition is not completed or the supplementary letters patent or letters patent are not issued, the rights of the dissenting shareholder under this section cease and the company shall not purchase the shares of such shareholder under this section. R.S.O. 1960, c. 71, s. 99. Where sale not completed

PART III

CORPORATIONS WITHOUT SHARE CAPITAL

100. This Part, except where it is otherwise expressly provided, applies, Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late

Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and

- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway. R.S.O. 1960, c. 71, s. 100.

Nature of
corpora-
tions

101. A corporation may be incorporated to which Part V or Part VI applies or that has objects that are of a patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature or that are of any other useful nature. R.S.O. 1960, c. 71, s. 101.

Application
for incor-
poration

102.—(1) The applicants for the incorporation of a corporation shall file with the Lieutenant Governor an application showing:

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the corporation to be incorporated.
3. The objects for which the corporation is to be incorporated.
4. The place in Ontario where the head office of the corporation is to be situate.
5. The names of the applicants who are to be the first directors of the corporation.
6. Any other matters that the applicants desire to have embodied in the letters patent.

Idem

(2) The applicants may ask to have embodied in the letters patent any provision that may be made the subject of a by-law of the corporation. R.S.O. 1960, c. 71, s. 102.

Classes of
membership

103. The letters patent, supplementary letters patent or by-laws of a corporation may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. R.S.O. 1960, c. 71, s. 103.

104. Upon incorporation of a corporation, each applicant becomes a member thereof. R.S.O. 1960, c. 71, s. 104. Applicants become members

105. A member shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the corporation or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. R.S.O. 1960, c. 71, s. 105. Members not liable

106. Unless the letters patent, supplementary letters patent or by-laws of a corporation otherwise provide, there is no limit on the number of members of the corporation. R.S.O. 1960, c. 71, s. 106. Number of members

107.—(1) Subject to subsection 2, persons may be admitted to membership in a corporation by resolution of the board of directors, but the letters patent, supplementary letters patent or by-laws may provide that such resolution is not effective until it has been confirmed by the members in general meeting. Admission to membership

(2) The letters patent, supplementary letters patent or by-laws of a corporation may provide for the admission of members *ex officio*. R.S.O. 1960, c. 71, s. 107. Idem

108. Each member of each class of members of a corporation has one vote, unless the letters patent, supplementary letters patent or by-laws of the corporation provide that each such member has more than one vote or has no vote. R.S.O. 1960, c. 71, s. 108. Voting powers of members

109.—(1) A corporation, except a corporation to which Part V or VI applies, shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide, and, where a company is converted into a corporation, the supplementary letters patent shall so provide. Not to be carried on for gain

(2) Nothing in subsection 1 prohibits a director from receiving reasonable remuneration and expenses for his services to the corporation as a director or prohibits a director or member from receiving reasonable remuneration and expenses for his services to the corporation in any other capacity, unless the letters patent, supplementary letters patent or by-laws otherwise provide. R.S.O. 1960, c. 71, s. 109. Exception

110. Subject to section 299, the letters patent, supplementary letters patent or by-laws of a corporation may provide Directors ex officio

for persons becoming directors *ex officio* in lieu of election. R.S.O. 1960, c. 71, s. 110.

Member-
ships not
transferable,
termination

111.—(1) Unless the letters patent or supplementary letters patent otherwise provide, the interest of a member in a corporation is not transferable and lapses and ceases to exist upon his death or when he ceases to be a member by resignation or otherwise in accordance with the by-laws of the corporation.

Where
transfer-
able

(2) Where the letters patent or supplementary letters patent provide that the interest of a member in the corporation is transferable, the by-laws shall not restrict the transfer of such interest.

Co-ops

(3) This section does not apply to corporations to which Part V applies. R.S.O. 1960, c. 71, s. 111.

By-laws

112.—(1) The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the admission of persons and unincorporated associations as members and as *ex officio* members and the qualification of and the conditions of membership;
- (b) the fees and dues of members;
- (c) the issue of membership cards and certificates;
- (d) the suspension and termination of memberships by the corporation and by the member;
- (e) the transfer of memberships;
- (f) the qualification of and the remuneration of the directors and the *ex officio* directors, if any;
- (g) the time for and the manner of election of directors;
- (h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (i) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirement as to proxies, and the procedure in all things at members' meetings and at meetings of the board of directors;

- (j) the conduct in all other particulars of the affairs of the corporation.

(2) A by-law passed under subsection 1 and a repeal, ^{Confirmation} amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

(3) The members may at the general meeting or the annual ^{Rejection} meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1960, c. 71, s. 112.

113.—(1) The directors of a corporation may pass by- ^{By-laws respecting delegates} laws providing for,

- (a) the division of its members into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members in each group, or
 - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members in each group;
- (d) the number and method of electing delegates;
- (e) the holding of meetings of delegates;
- (f) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;
- (g) the holding of meetings of members or delegates territorially or on the basis of common interest.

Confirmation (2) No by-law passed under subsection 1 is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the members duly called for considering the by-law.

Voting (3) A delegate has only one vote and shall not vote by proxy.

Qualification of delegates (4) No person shall be elected a delegate who is not a member of the corporation.

Saving (5) No such by-law shall prohibit members from attending meetings of delegates and participating in the discussions at such meetings. R.S.O. 1960, c. 71, s. 113.

Supplementary letters patent **114.**—(1) A corporation may apply to the Lieutenant Governor for the issue of supplementary letters patent,

(a) extending, limiting or otherwise varying its objects;

(b) changing its name;

(c) varying any provision in its letters patent or prior supplementary letters patent;

(d) providing for any matter or thing in respect of which provision may be made in letters patent under this Act;

(e) converting it into a company;

(f) converting it into a corporation, with or without share capital, subject to Part V;

(g) making it not subject to Part V.

Authoriza- tion (2) An application under clauses *a* to *d* of subsection 1 shall be authorized by a special resolution.

Idem (3) An application under clauses *e* to *g* of subsection 1 shall be authorized by resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the members; or

(b) by at least 95 per cent of the members,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member

to his last address as shown on the books of the corporation and only if at the expiration of the twenty-one days none of the members has dissented in writing to the corporation.

(4) If the application is under clause *e*, *f* or *g* of subsection 1 and the corporation is to become a company, the application shall set forth the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, the par value of each share or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued, and, where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them, and the terms and conditions on which the members will become shareholders.

Contents of application for conversion into company

(5) An application under subsection 1 may be made only within six months after the resolution has been confirmed by the members.

Time for application

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1960, c. 71, s. 114.

Special Act corporations excepted

115.—(1) A corporation may pass by-laws providing that, upon its dissolution and after the payment of all debts and liabilities, its remaining property or part thereof shall be distributed or disposed of to charitable organizations or to organizations whose objects are beneficial to the community.

Disposition of property on dissolution

(2) Such a by-law is not effective until it has been confirmed by two-thirds of the votes cast at a general meeting of the members duly called for that purpose.

Confirmation

(3) Notice of a by-law passed under this section shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after it has been confirmed.

Filing and publication of notice

(4) Every corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine.

Offence

Where no
by-law

(5) In the absence of such by-law and upon the dissolution of the corporation, the whole of its remaining property shall be distributed equally among the members or, if the letters patent, supplementary letters patent or by-laws so provide, among the members of a class or classes of members. R.S.O. 1960, c. 71, s. 115.

Application
of Part II
provisions
to Part III
corporations

116.—(1) Section 21*a*, clauses *a* to *p*, *s*, *u* and *v* of subsection 1 and subsection 2 of section 22, sections 58 to 60, 66, 68 to 70, 72 to 75, 79 and 80, subsection 1 of section 81, section 82, subsections 1 and 3 of section 83 and section 96 apply *mutatis mutandis* to corporations to which this Part applies, and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”. R.S.O. 1960, c. 71, s. 116 (1); 1964, c. 10, s. 3 (1).

Charitable
corporation

(1*a*) Notwithstanding subsection 1, in the case of a corporation to which this Part applies the objects of which are exclusively for charitable purposes, it is sufficient notice of any meeting of the members of the corporation if notice is given by publication at least once a week for two consecutive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which the majority of the members of the corporation reside as shown by their addresses on the books of the corporation. 1964, c. 10, s. 3 (2).

Co-ops

(2) Subsection 1 of section 22 and sections 69, 83 to 88, 91 and 92 apply *mutatis mutandis* to corporations to which Part V applies, and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”.

Insurers

(3) Sections 83 to 86, 91 and 92 and subsections 1 and 3 of section 93 apply *mutatis mutandis* to corporations to which Part VI applies and in so applying them the word “company” means “corporation” and the word “shareholder” means “member”. R.S.O. 1960, c. 71, s. 116 (2, 3).

PART IV

MINING COMPANIES

Interpre-
tation

117. In this Part, “company” means a company to which this Part applies. R.S.O. 1960, c. 71, s. 117.

Application

118. This Part applies,

(*a*) to every mining company incorporated before the 1st day of July, 1907;

- (b) to every mining company that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subjection has not been removed by supplementary letters patent; and
- (c) to every mining company made subject to this Part by its letters patent or supplementary letters patent where the subjection has not been removed by supplementary letters patent. R.S.O. 1960, c. 71, s. 118.

119.—(1) The shares of a company shall be with par value. Par value shares only

(2) Subsection 1 does not apply to shares authorized before the 30th day of April, 1954. Exception R.S.O. 1960, c. 71, s. 119.

120.—(1) Unless the letters patent, supplementary letters patent or by-laws otherwise provide, a company may issue its shares at a discount. Issue of shares at discount

(2) Notwithstanding subsection 1, preference shares shall not be issued at a discount. At par

(3) Where shares are to be issued at a discount, the rate of discount shall be specified in the resolution of the directors allotting such shares. Rate of discount R.S.O. 1960, c. 71, s. 120.

121. No shareholder of a company who holds shares that were validly issued at a discount before the 30th day of April, 1954, or that are validly issued at a discount on or after the 30th day of April, 1954, is personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. Shareholders' liability R.S.O. 1960, c. 71, s. 121.

122. A company shall have upon every share certificate issued by it distinctly written or printed in red ink, where such certificates are issued with respect to shares subject to call, the words "SUBJECT TO CALL" or, where issued with respect to shares not subject to call, the words "NOT SUBJECT TO CALL". Share certificates R.S.O. 1960, c. 71, s. 122.

PART V

CO-OPERATIVE CORPORATIONS

123. In this Part, except in subsections 3 and 5 of section 125, "corporation" or "company" means a corporation or company, as the case may be, to which this Part applies. Interpretation R.S.O. 1960, c. 71, s. 123.

- Application** **124.**—(1) This Part applies,
- (a) to every corporation that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent; and
 - (b) to every corporation made subject to this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent.
- Act to apply** (2) Except where inconsistent with the provisions of this Part, the other provisions of this Act apply to a corporation to which this Part applies. R.S.O. 1960, c. 71, s. 124.
- Corporate name** **125.**—(1) The corporate name of a corporation shall include the word “co-operative” as part thereof.
- Abbreviation** (2) Where a corporation or any director, officer, employee, shareholder or member uses the name of the corporation, the word “co-operative” may be abbreviated to “co-op”.
- Prohibition** (3) No person not being a corporation to which this Part applies shall use in Ontario a name that includes the word “co-operative” or any abbreviation or derivation thereof whether or not the word, abbreviation or derivation is used in or in conjunction with the name.
- Offence** (4) A person who contravenes subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.
- Exceptions** (5) Subsection 3 does not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation licensed under Part IX, to a corporation incorporated under the laws of Ontario before the 12th day of April, 1917, or to a corporation to which *The Credit Unions Act* applies. R.S.O. 1960, c. 71, s. 125.
- Share capital** **126.**—(1) The authorized capital of a company incorporated on or after the 1st day of June, 1949, shall consist of one or more classes of shares to be designated as co-operative or co-op preference shares or as co-operative or co-op common shares, as the case may be, and each class shall have a par value of \$5 or any multiple of \$5 not exceeding \$100.
- Share certificates** (2) A share certificate issued on or after the 30th day of April, 1954, shall,

- (a) bear upon its face the name of the company, the words "incorporated as a co-operative company and subject to Part V of *The Corporations Act* (Ontario)" and a statement of the authorized capital, but, where some but not all of the shares of a class are purchased for redemption or some but not all of the preference shares of a class are converted, redeemed or purchased for cancellation, it is not necessary to change such statement of the authorized capital;
- (b) state the information required by clauses *b* and *c* of subsection 1 of section 45;
- (c) state that the shares represented by the certificate are not transferable without the authorization of the directors;
- (d) set forth the provisions of section 135;
- (e) state that the dividend, if any, to which the holder of a share may become entitled shall not exceed 8 per cent per annum of the amount paid up thereon; and
- (f) state that the company may by by-law limit the amount to be distributed for each share on the dissolution of the company to the amount paid up on such share together with declared and unpaid dividends. R.S.O. 1960, c. 71, s. 126.

127.—(1) The capital of corporations without share capital may be in the form of loans from members, called "member loans", and such loans may be in such amounts, payable on demand or at such times and without interest or with interest at a rate not exceeding 6 per cent per annum, as the by-laws provide.

(2) A corporation may borrow money from its shareholders or members in such amounts payable on demand or at such times and either without interest or with interest at a rate not exceeding 6 per cent per annum, as the by-laws provide. R.S.O. 1960, c. 71, s. 127.

128. Where a member of a corporation without share capital dies or does not transact any business with the corporation for a period of two years, the directors may terminate the membership, and upon such termination the corporation shall pay any money owing to the member. R.S.O. 1960, c. 71, s. 128.

Transfer of
shares

129.—(1) No share of a company shall be transferred unless authorized by the board of directors.

Member-
ships

(2) No membership in a corporation without share capital shall be transferred unless authorized by the board of directors. R.S.O. 1960, c. 71, s. 129.

Voting

130.—(1) No individual member or shareholder of a corporation shall vote by proxy.

Idem

(2) An individual member or shareholder of a corporation has only one vote.

Voting by
corporate
members or
shareholders

(3) A corporate member or shareholder may appoint under its corporate seal one of its directors or officers to attend and vote on its behalf at meetings of members or shareholders and such director or officer has only one vote. R.S.O. 1960, c. 71, s. 130.

Qualifi-
cation of
directors

131. No person shall hold office as a director of a corporation unless he is a member or shareholder thereof or a director or officer of a corporate member or shareholder thereof, and, where a director or a corporation of which he is an officer or director ceases to be a member or shareholder, he thereupon ceases to be a director. R.S.O. 1960, c. 71, s. 131.

Reserve
fund and
dividends

132. A corporation may by by-law provide that, before any distribution of surplus arising from the business of the corporation in each fiscal year is made, the corporation may,

- (a) set aside reserve funds;
- (b) provide for the payment of dividends on the share capital at a rate not to exceed 8 per cent per annum of the amount paid up thereon. R.S.O. 1960, c. 71, s. 132.

Distribution
of net
surplus

133.—(1) Subject to section 132, the surplus arising from the business of the corporation in each fiscal year shall be allocated, credited or paid to the members or shareholders in proportion to the business done by each member or shareholder with or through the corporation, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the member or shareholder or by the corporation from or on behalf of or to the member or shareholder, or to the corporation, whether as principal or as agent of the member or shareholder or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

(2) The corporation may by by-law provide that part of the ^{Idem} surplus may be allocated, credited or paid to non-members or non-shareholders at the same or at lesser rates than to members or shareholders.

(3) The amount that is allocated, credited or paid to mem- ^{Patronage}bers, shareholders, non-members or non-shareholders in each ^{return} fiscal year shall be known as the patronage return.

(4) The corporation may by by-law provide that, where the ^{Limitation} value of the goods or products acquired, marketed, handled, ^{of patronage} dealt in or sold, or services rendered by the corporation from ^{return} or on behalf of or to any member, shareholder, non-member or non-shareholder in any year does not exceed \$50, or such lesser amount as is specified in the by-law, no patronage return shall be allocated, credited or paid to such member, shareholder, non-member or non-shareholder. R.S.O. 1960, c. 71, s. 133.

134.—(1) A company may by by-law provide that in ^{Investment} each fiscal year the whole, or such part as the directors may ^{of patronage} determine, of the patronage return of each shareholder shall ^{return} be applied to the purchase for the shareholder of a stated number of unissued shares of the company or a stated number of issued shares of the company, if obtainable.

(2) Where a company has enacted a by-law under sub- ^{Notice} section 1 and the whole or part of the patronage return of a shareholder is required to be invested in issued shares, the company shall mail a written notice to such shareholder stating the number of shares to be purchased by him.

(3) Unless within thirty days from the date of mailing ^{Purchase of} of the notice referred to in subsection 2 the shareholder ^{shares on} required to purchase issued shares has presented for transfer ^{behalf of} to himself the number of shares that he is required to purchase, ^{shareholder} the company may on behalf of such shareholder, ^{required to} ^{purchase}

(a) purchase the required number of shares from share- holders who are willing to sell shares;

(b) pay out of the patronage return of such shareholder the purchase price;

(c) transfer such shares to the shareholder; and

(d) issue and forward to such shareholder a certificate representing such shares.

(4) A corporation may enact by-laws requiring its share- ^{Compulsory} holders or members to lend to it the whole, or such part as ^{borrowing} the directors may determine, of the patronage returns to

which they may become entitled in each fiscal year, upon such terms and at such rate of interest not exceeding 6 per cent per annum, as the by-laws provide.

Idem (5) No shareholder shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof or issued shares when no such shares are available for purchase.

Idem (6) Where the corporation is insolvent, no member or shareholder shall be required under this section to lend his patronage return and no shareholder shall be required to purchase shares of the corporation.

Idem (7) This section does not prevent a member or shareholder from receiving so much of his patronage return as has not been appropriated to loans to the corporation or to the purchase of shares of the corporation in accordance with the by-laws. R.S.O. 1960, c. 71, s. 134.

Purchase of
shares by
company

135.—(1) Subject to subsections 2 and 3, a company,

- (a) with the consent of a shareholder, may purchase for redemption all or part of the shares held by such shareholder upon payment of such an amount, not exceeding the par value of the shares, as is agreed upon; and
- (b) when a corporate shareholder is about to be dissolved or a shareholder has failed for a period of two years to transact any business with the company, may purchase for redemption the shares of such shareholder or require the transfer of such shares to another person at the book value or par value, whichever is the lesser.

Prohibition
re purchase
for re-
demption

(2) No company,

- (a) shall use for the purchase of shares for redemption in a fiscal year an amount in excess of 50 per cent of the accumulated reserve funds;
- (b) shall purchase for redemption in a fiscal year more than 10 per cent of the shares outstanding at the beginning of the year;
- (c) shall purchase shares for redemption where the company is insolvent or so as to render the company insolvent or so as to reduce the number of shareholders to fewer than ten.

(3) Where a share is purchased for redemption by a company, it shall be thereby cancelled and the authorized and issued capital shall be thereby decreased. Re-issue prohibited

(4) Where shares are subject to purchase for redemption and the company gives to the shareholder written notice of purchase in which the shareholder is requested to surrender the share certificates, if any, for cancellation and the shareholder fails to comply within the time specified, not being less than thirty days after the giving of such notice, the company may pay the purchase price into a chartered bank to the credit of the shareholder and cancel the shares. Where certificates of redeemed shares not surrendered R.S.O. 1960, c. 71, s. 135.

136.—(1) On any distribution of the property of a corporation without share capital, member loans and patronage returns that are lent to the corporation rank after the ordinary debts. Distribution of property

(2) A corporation may enact by-laws providing that, upon the dissolution of the corporation and after the payment of all debts and liabilities, including any declared and unpaid dividends and the amount paid up on outstanding shares, if any, the remaining property of the corporation or part thereof may be distributed or disposed of, Distribution of property upon dissolution

- (a) equally among the members or shareholders irrespective of the number of shares held by a shareholder;
- (b) among the members or shareholders at the time of dissolution on the basis of patronage returns accrued to such members or shareholders during the five fiscal years immediately preceding the dissolution or after the date of incorporation; or
- (c) to charitable organizations or to organizations whose objects are beneficial to the community. R.S.O. 1960, c. 71, s. 136.

137.—(1) A corporation may pass by-laws providing for, By-laws

- (a) the division of its members or shareholders into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both, or

- (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (d) where all of the members or shareholders are corporations, the election of delegates and alternative delegates to represent such corporations on the basis of the number of members or shareholders in each corporation or the volume of business done with each corporation, or both;
- (e) the number and method of electing delegates;
- (f) the holding of meetings of delegates;
- (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members or shareholders;
- (h) the holding of meetings of members, shareholders or delegates territorially or on the basis of common interest;
- (i) the payment of expenses of delegates attending meetings.

Voting

- (2) A delegate has only one vote and shall not vote by proxy.

Qualification of delegates

- (3) No person shall be elected a delegate who is not a member or shareholder of the corporation or a director, officer, member or shareholder of a corporate member or shareholder of the corporation.

Saving

- (4) No such by-law shall prohibit members or shareholders from attending meetings of delegates and participating in the discussions at such meetings. R.S.O. 1960, c. 71, s. 137.

By-laws to be confirmed

- 138.**—(1) A by-law of a corporation passed under this Part is not effective until it has been confirmed by a vote of two-thirds of the members or shareholders present or represented at a meeting duly called for considering it.

By-laws a contract

- (2) A by-law of the corporation binds the corporation and its members or shareholders to the same extent as if the by-law had been signed and sealed by each member or share-

holder and contained covenants on behalf of each member or shareholder, his heirs, executors, administrators or assigns to conform thereto. R.S.O. 1960, c. 71, s. 138.

139.—(1) A corporation shall,

Duties:

- (a) file in the office of the Provincial Secretary, within thirty days after confirmation by its members or shareholders, copies of all its by-laws certified under its corporate seal; file by-laws
- (b) deliver a copy of its by-laws to a member or shareholder when requested in writing so to do; deliver copies of by-laws
- (c) transmit within ten days after each annual meeting to the Provincial Secretary a copy of its financial statement and a copy of its auditor's report; transmit statements to Provincial Secretary
- (d) send to every person entitled to notice of its annual meeting with the notice of the annual meeting a copy of its financial statement and a copy of its auditor's report; and deliver statements
- (e) upon the request in writing of a member or shareholder, send to such member or shareholder a copy of its financial statement and a copy of its auditor's report. idem

(2) Clause *c* of subsection 1 does not apply to a corporation registered under *The Prepaid Hospital and Medical Services Act*. Exception R.S.O. 1960, c. 304

(3) A corporation that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 139. Offence

140.—(1) A corporation has power to carry on, encourage and assist educational and advisory work relating to co-operatives and the co-operative ideal. Educational and advisory work

(2) A corporation may enact by-laws authorizing the deduction from the patronage return allocated, credited or paid to each of its members or shareholders of an amount not exceeding \$1 a year and authorizing the payment of the amount deducted to a union or federation of corporations for educational purposes. R.S.O. 1960, c. 71, s. 140. Support of educational work

Provision
for
relief

141. The Lieutenant Governor in Council may declare that a corporation is no longer subject to this Part and change such corporation's name, if it appears to the Lieutenant Governor in Council that 50 per cent or more in value of the business of the corporation during its last fiscal year was transacted with persons or corporations that were neither members nor shareholders of the corporation. R.S.O. 1960, c. 71, s. 141.

PART VI

INSURANCE CORPORATIONS

Interpre-
tation
R.S.O. 1960,
c. 190

142. In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of *The Insurance Act* have the same meaning as in that Act. R.S.O. 1960, c. 71, s. 142.

Application
of Part

143.—(1) This Part applies to all applications for incorporation of insurers intending to undertake contracts of insurance in Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 30th day of April, 1954, under the laws of Ontario.

Application
of Act

(2) Except where inconsistent with this Part and except as provided in subsection 3, the other provisions of this Act apply to all such insurers.

Exception

(3) Sections 83 to 91 do not apply to insurers undertaking and transacting life insurance. R.S.O. 1960, c. 71, s. 143.

(4) (1962-63, c. 24, s. 4) REPEALED: 1964, c. 10, s. 4.

Incorporation of
joint stock
insurance
companies

144.—(1) A joint stock insurance company may be incorporated for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*.

Notice

(2) Applicants for incorporation shall, immediately before the application is made, publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required by the Provincial Secretary, publish elsewhere notice of such intention.

Notice to
Superin-
tendent

(3) Applicants for incorporation shall also give at least one month's notice to the Superintendent of their intention to apply for incorporation. R.S.O. 1960, c. 71, s. 144.

Interpre-
tation

145.—(1) In this section, "money received on account of shares" includes money received as premium on shares.

(2) If the company undertakes life insurance, the authorized capital shall be \$500,000 or more. Capital of life companies

(3) If the company undertakes any one or more classes of insurance other than life, the authorized capital shall be \$300,000 or more. R.S.O. 1960, c. 71, s. 145 (1-3). Other cases

(4) The authorized capital shall be divided into shares of \$100 each, but, where not less than \$200,000 of the authorized capital has been paid in in cash, the shares or any class of shares may be redivided into shares having a par value of \$1 or a multiple thereof, or an additional class or classes of shares having a par value of \$1 or a multiple thereof may be created. R.S.O. 1960, c. 71, s. 145 (4); 1962-63, c. 24, s. 5. Par value of shares

(5) All money received on account of shares shall be paid into a branch or agency in Ontario of a chartered bank of Canada or into a registered trust company in trust for the proposed company, and no money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and an election of directors held thereat. Application of money received on account of shares

(6) A subscription for shares made before the granting of a licence under *The Insurance Act* shall contain the stipulation that all money received on account of shares will be returned to the subscribers without any deduction for promotion, organization or other expenses, in case the insurer fails to procure such a licence. Return of subscriptions on failure to secure licence R.S.O. 1960, c. 190

(7) A subscription for shares shall contain the stipulation that no sum will be used or paid, before or after incorporation, for commission, promotion or organization expenses in excess of a percentage, not exceeding 15, of the amount of money received on account of shares. R.S.O. 1960, c. 71, s. 145 (5-7). Limit of percentage of subscriptions for charges

146.—(1) In subsection 2, “surplus to policyholders” means surplus of assets over liabilities excluding issued capital shown in the annual financial statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent. Interpretation

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policyholders of more than \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent. Reduction of capital of life insurance companies

New par value to be declared

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares.

Application, when to be made

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering it and holding not less than two-thirds of the votes cast at such meeting.

Surplus not to be decreased by dividends to shareholders

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital will not be decreased by dividends subsequently declared to shareholders. R.S.O. 1960, c. 71, s. 146.

Ss. 176 (2-4), 178, 179 applicable to company undertaking life insurance

147. A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 2, 3 and 4 of section 176 and sections 178 and 179 apply to such company. R.S.O. 1960, c. 71, s. 147.

Amalgamation R.S.O. 1960, c. 190

148. Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 96 of this Act applies to the amalgamation of two or more joint stock insurance companies. R.S.O. 1960, c. 71, s. 148.

Amalgamation, etc., of mutual corporation and joint stock corporation

149.—(1) Subject to *The Insurance Act*, a mutual corporation incorporated under the laws of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirmation of agreement

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant Governor in Council under *The Insurance Act*.

Agreement binding on all members of mutual corporation

(3) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws

of or certificates issued by a fraternal society whose contracts have been assumed by the mutual corporation or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved are valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon their beneficiaries and legal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

(4) Upon the coming into force of any such agreement, the reinsurer, in complying with the requirements of *The Insurance Act* in respect of the valuation of contracts so reinsured or transferred, is entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. R.S.O. 1960, c. 71, s. 149.

Standard of
valuations
R.S.O. 1960,
c. 190

150.—(1) A mutual or cash-mutual corporation with guarantee capital stock may be incorporated for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under *The Insurance Act*.

Incorporation of
mutual and
cash-mutual
insurance
corporations

(2) A mutual insurance corporation without guarantee capital stock may be incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan upon agricultural property, weather insurance or live stock insurance. R.S.O. 1960, c. 71, s. 150.

Idem

151.—(1) Ten freeholders in any municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation without guarantee capital stock to undertake contracts of fire insurance on the premium note plan upon agricultural property.

Incorporation of
mutual fire
insurance
corporation
without
guarantee
capital stock

(2) The meeting shall be called by advertisement, stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and at least once a week for three consecutive weeks in a newspaper published in the county or district in which the municipality is situate.

Advertisements calling
meeting

- Subscription book** (3) If thirty freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation, they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property in Ontario may sign their names and enter the sum for which they respectively bind themselves to effect insurance in the corporation.
- When meeting may be called** (4) When one hundred or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to \$250,000 or more, a meeting shall be called as hereinafter provided.
- How meeting to be called** (5) When the subscription has been completed, any ten of the subscribers may call the first meeting of the proposed corporation at such time and place in the municipality as they determine by sending a printed notice by mail, addressed to each subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.
- Contents of notice** (6) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held.
- Election of directors** (7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the words "fire" and "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and general accessible place in the municipality, or in a municipality adjacent thereto, named, at which the head office of the company is to be located.
- Quorum of meeting** (8) The presence of at least twenty-five of the subscribers is necessary to constitute a valid meeting.
- First meeting of directors** (9) As soon as convenient after the meeting, the acting secretary shall call a meeting of the board of directors for the election from among themselves of a president and a vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and for the transaction of such other business as may be brought before the meeting.
- Certain documents to be delivered** (10) With the application for incorporation, the applicants shall produce to the Provincial Secretary, certified as correct under the hands of the chairman and secretary,
- (a) a copy of the minutes of the meeting, including all resolutions respecting the objects of the proposed

corporation, its name and the location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed; and

(d) such further information as the Provincial Secretary requires.

(11) There shall also, for verification, be produced to the Provincial Secretary, if requested, the originals of such documents. Production of originals

(12) The Provincial Secretary shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with this section and whether the subscriptions are *bona fide* and by persons possessing property to insure. R.S.O. 1960, c. 71, s. 151 (1-12). Provincial Secretary to ascertain correctness of proceedings

(13) The powers of a mutual fire insurance corporation without guarantee capital stock shall be limited to undertaking contracts of fire insurance upon agricultural property, or property that is not mercantile or manufacturing or hazardous, on the premium note plan in accordance with *The Insurance Act*, but may be extended by supplementary letters patent to include, in the case of property that it insures against fire, property damage insurance, theft insurance or any class or classes of insurance set out in section 27 of *The Insurance Act*, but, if such powers are extended to include weather insurance, all liability for loss in excess of \$100 on any risk covered by weather insurance shall be reinsured with a licensed weather insurance company. R.S.O. 1960, c. 71, s. 151 (13); 1962-63, c. 24, s. 6. Powers R.S.O. 1960, c. 190

(14) The reinsurance requirement under subsection 13 with respect to weather insurance does not apply to a mutual fire insurance corporation without guarantee capital stock that is restricted by its licence to insuring the plant and stock of millers and grain dealers used in connection with the grain trade, and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees, against fire and any other class or classes of insurance set out in section 27 of *The Insurance Act*. R.S.O. 1960, c. 71, s. 151 (14). Application of proviso in subs. 13

152.—(1) Ten owners of live stock in any municipality may call a meeting of the owners of live stock to consider whether it is expedient to establish a live stock insurance corporation upon the mutual plan. Incorporation of mutual live stock insurance corporation without guarantee capital stock

Organi-
zation

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more.

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation incorporated under this section to undertaking contracts of insurance on the premium note plan against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection. R.S.O. 1960, c. 71, s. 152.

Incorporation of
mutual
weather in-
surance cor-
poration
without
guarantee
capital stock

153.—(1) Ten owners of agricultural property in any municipality may call a meeting of the owners of agricultural property to consider whether it is expedient to establish therein a weather insurance corporation upon the mutual plan.

Organi-
zation

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more.

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation without guarantee capital stock incorporated under this section to undertaking contracts of insurance on the premium note plan on any kind of agricultural property or property that is not mercantile or manufacturing against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1960, c. 71, s. 153.

154. No cash-mutual insurance corporation shall be incorporated unless formed with guarantee capital stock as hereinafter provided. R.S.O. 1960, c. 71, s. 154. Cash-mutual corporation

155. Sections 156 to 161 apply only to cash-mutual fire insurance corporations licensed under *The Insurance Act* before the 1st day of January, 1914. R.S.O. 1960, c. 71, s. 155. Application of ss. 156-161 R.S.O. 1960, c. 190

156.—(1) A cash-mutual insurance corporation that had a share capital on the 1st day of January, 1925, with the assent of the Lieutenant Governor in Council, may from time to time increase its share capital to such an amount as he deems expedient. Increase of share capital

(2) Notice of an application to the Lieutenant Governor in Council under this section shall be published in at least four consecutive issues of *The Ontario Gazette*. R.S.O. 1960, c. 71, s. 156. Notice of application

157. A subscriber to such share capital, on allotment of one or more shares, becomes a shareholder of the corporation. R.S.O. 1960, c. 71, s. 157. Subscribers to become shareholders

158. No insurance on the wholly cash plan makes the insured a member of the corporation or liable to contribute or pay any sum to the corporation, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or gives him any right to participate in the profits or surplus funds of the corporation. R.S.O. 1960, c. 71, s. 158. Insurance on cash plan not to constitute membership

159. The net annual profits and gains of the corporation, not including therein any premium notes, shall be applied in the first place to pay a dividend on the share capital at a rate not exceeding 10 per cent per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the corporation. R.S.O. 1960, c. 71, s. 159. Dividends

160.—(1) A corporation that has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company upon making application in the manner provided in this Act for the incorporation of joint stock insurance companies. When cash-mutual company may become a joint stock company

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and, if the corporation has share capital, by a vote of at least two-thirds of the issued capital stock represented at an annual general meeting or at a special general meeting and by three-fourths in number of the directors of the corporation in writing signed by them. Approval of members and shareholders

Notice of
application

(3) Notice of the intention to make the application and of the consideration thereof at such meeting shall be published in at least four consecutive issues of *The Ontario Gazette* and in a newspaper published in the county or district in which the head office of the corporation is situate at least once a week for four consecutive weeks before the holding of the meeting.

Priority of
members in
subscribing
stock

(4) A person who is a member of the corporation on the day of the meeting is entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. R.S.O. 1960, c. 71, s. 160.

Vesting of
assets and
preservation
of liabilities

161. A corporation formed under section 160 is answerable for all liabilities of the corporation from which it has been formed and may sue and be sued under its new corporate name, and the assets and property of the old corporation are vested in the new corporation from the date of its formation. R.S.O. 1960, c. 71, s. 161.

Mutual
insurance
corporation
with
guarantee
capital stock

162.—(1) A mutual or cash-mutual insurance corporation may be formed with an authorized guarantee capital stock of not less than \$300,000 and not more than \$500,000.

Number of
shares

(2) The guarantee capital stock shall be divided into shares of \$100 each. R.S.O. 1960, c. 71, s. 162.

Dividends

163. The holders of the guarantee capital stock are entitled to a semi-annual dividend of not more than 4 per cent per annum on their respective shares if there is sufficient surplus in excess of the guarantee capital stock outstanding, after providing for all liabilities and reserves, to pay such dividend. R.S.O. 1960, c. 71, s. 163.

Payment of
loss out of
guarantee
capital

164. The guarantee capital shall be applied to the payment of losses only when the corporation has exhausted its assets exclusive of uncollected premiums and, when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the corporation at the date of the impairment. R.S.O. 1960, c. 71, s. 164.

Right to
vote

165. Shareholders and members of such corporations are subject to the provisions of this Act relative to their right to vote as applied to shareholders and policyholders in mutual or cash-mutual corporations incorporated without guarantee capital stock. R.S.O. 1960, c. 71, s. 165.

166.—(1) The guarantee capital stock shall be retired when the profits accumulated equal 2 per cent of the insurance capital stock in force. Retirement of guarantee capital stock

(2) The guarantee capital stock may be reduced or retired by vote of the policyholders of the corporation with the assent of the Superintendent if the net assets of the corporation, above its reinsurance reserve and all other claims and obligations, exclusive of the guarantee capital stock, for the two years last preceding and including the date of its last annual statement, are not less than 25 per cent of the guarantee capital stock. Idem

(3) Notice of the intention of the corporation to reduce or retire the guarantee capital stock shall be published in at least four consecutive issues of *The Ontario Gazette*, not less than thirty days before the meeting when such action may be taken, and elsewhere if so required by the Superintendent. Notice
R.S.O. 1960, c. 71, s. 166.

167. No mutual or cash-mutual insurance corporation with a guarantee capital stock, that has ceased to do new business, shall divide among its shareholders any part of its assets or guarantee capital, except income from investments, until it has performed or cancelled its policy obligations and upon proof to the Superintendent that such policy obligations have been performed or cancelled. Distribution of guarantee capital stock
R.S.O. 1960, c. 71, s. 167.

168. Sections 169 to 184 apply only to mutual and cash-mutual fire insurance corporations and to mutual live stock corporations and mutual weather insurance corporations. Mutual and cash-mutual insurance corporations, application of ss. 169-184
R.S.O. 1960, c. 71, s. 168.

169.—(1) A person insured under a policy issued by a corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation. Insured deemed member

(2) No member is liable in respect of any claim or demand against the corporation beyond the amount unpaid on his premium note. Member's liability

(3) A member may, with the consent of the directors, withdraw from the corporation on such terms as the directors lawfully prescribe, subject to *The Insurance Act*. Member withdrawing
R.S.O. 1960, c. 71, s. 169.

170.—(1) A meeting of the shareholders and members for the election of directors shall be held within the first two months of every year at such time and place as the by-laws of the corporation prescribe. Annual meeting

Annual
statement

(2) Before the election, the annual statement for the year ending on the previous 31st day of December shall be presented and read. R.S.O. 1960, c. 71, s. 170.

Failure to
elect
directors

171. If an election of directors is not made on the day on which it ought to have been made, the corporation shall not for that cause be dissolved, but the election may be held on a subsequent day at a meeting to be called by the directors or as otherwise provided by the by-laws of the corporation, and in such case the directors then in office continue to hold office until their successors are elected. R.S.O. 1960, c. 71, s. 171.

Notice of
annual or
special
meetings

172.—(1) Notice of every annual or special general meeting of the corporation shall be sent by mail to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before the day of the meeting.

Power of
directors

(2) The directors may call a general meeting of the corporation at any time.

Annual
statement to
be sent to
members

(3) The directors shall, at least seven days before the day of the annual meeting, send to each member by mail the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors and shall be in the form prescribed by the regulations made under section 77 of *The Insurance Act*. R.S.O. 1960, c. 71, s. 172.

R.S.O. 1960,
c. 190

Voting
powers of
members

173.—(1) A member of the corporation is entitled at all meetings of the corporation to the number of votes in proportion to the amount of insurance held by him according to the following scale: under \$1,500, one vote; \$1,500 or over but under \$3,000, two votes; and \$3,000 or over, three votes; but no member is entitled to vote while in arrear for any assessment or cash payment due by him to the corporation.

Where policy
made to two
or more
persons

(2) Where a policy on the premium note plan is made to two or more persons, one only is entitled to vote, and the right of voting belongs to the one first named on the register of policyholders if he is present or, if not present, to the one who stands second, and so on.

Where prop-
erty
insured by
trustee board

(3) Where property is insured by a trustee board, any member of the board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. R.S.O. 1960, c. 71, s. 173.

Right of
mere
applicants

174. No applicant for insurance is competent to vote or otherwise take part in the corporation's proceedings until

his application has been accepted by the directors. R.S.O. 1960, c. 71, s. 174.

175.—(1) No person is eligible to be or shall act as a director unless he is a member of the corporation and insured therein for the time he holds office, Qualifications of directors

(a) in the case of a live stock insurance corporation, to an amount not less than \$200; and

(b) in the case of every other corporation, to an amount not less than \$800.

(2) Where the corporation has a share capital, not less than two-thirds of the directors shall also be holders of shares, each to an amount not less than \$1,000, upon which all calls have been paid. Where corporation has a share capital

(3) The president or director of a member corporation that has the qualifications that would qualify an individual to be a director is eligible to be a director of the corporation. Representation of corporations

(4) Where a partnership has the qualifications that would qualify an individual to be a director of the corporation, one member of the partnership is eligible to be a director of the corporation. R.S.O. 1960, c. 71, s. 175. Representation of partnerships

176.—(1) The board shall consist of six, nine, twelve or fifteen directors, to be determined by resolution passed at the meeting held under subsection 5 of section 151. Number of directors

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting, but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen. Increase or decrease in number

(3) Where such a notice has been given to the secretary, that fact shall be stated in the notice of the annual general meeting. Notice of proposed change

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. R.S.O. 1960, c. 71, s. 176. Copy of resolution and list of directors to be filed

Filing
by-laws for
remunera-
tion of
directors

177. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it is lawful to pass by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. R.S.O. 1960, c. 71, s. 177.

Retirement
of directors
in rotation

178. One-third of the directors shall retire annually, in rotation, and, at the first meeting of the directors or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. R.S.O. 1960, c. 71, s. 178.

Annual
election
to fill
vacancies

179. At every annual general meeting thereafter, one-third of the total number of directors shall be elected for a period of three years to fill the places of the retiring directors, who are eligible for re-election. R.S.O. 1960, c. 71, s. 179.

Manager
may be a
director and
be paid
salary

180. The manager of the corporation, although he has not the qualifications required by section 175, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 177. R.S.O. 1960, c. 71, s. 180.

Certain
persons not
eligible as
directors

181.—(1) No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, is eligible to be elected as a director or shall interfere in the election of directors.

Fees of
director
taking
application

(2) Nothing in this section applies to a person receiving applications for insurance or taking to his own use the customary application, survey or policy fee or prevents a director from so doing. R.S.O. 1960, c. 71, s. 181.

Election of
directors

182.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in person, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it.

Ballot

(2) The election shall be by ballot.

Case of a
tie at an
election

(3) If two or more members have an equal number of votes so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

(4) The directors shall, at their first meeting after any such election, elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. R.S.O. 1960, c. 71, s. 182.

Election of
president
and vice-
president

183. If a vacancy occurs among the directors, during the term for which they have been elected, by death, resignation, ceasing to have the prescribed qualification, insolvency or by absence without previous leave of the directors from three successive regular meetings, which shall *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and, in the case of a board limited to a number of directors exceeding six, may be filled until the next annual general meeting by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. R.S.O. 1960, c. 71, s. 183.

Interim
vacancies

184.—(1) A majority of the directors constitutes a quorum for the transaction of business, and, in the case of an equality of votes at any meeting, the question passes in the negative.

Quorum of
directors

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. R.S.O. 1960, c. 71, s. 184.

Recording
dissent

185.—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit.

Security of
accountants

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$3,000 and shall consist of the bond of a licensed guarantee insurance or surety company. R.S.O. 1960, c. 71, s. 185.

Minimum

186. Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 96 applies *mutatis mutandis* to the amalgamation of two or more mutual or cash-mutual insurance corporations. R.S.O. 1960, c. 71, s. 186.

Amalga-
mation
R.S.O. 1960,
c. 190

187.—(1) Subject to subsection 5, a mutual or cash-mutual insurance corporation may form a permanent reserve fund to consist of such part of the net profits as is from time to time set aside by the directors for that purpose or

Reserve
fund of
mutual or
cash-mutual
insurance
corporation

to be made up by annual assessments for that purpose not exceeding, for any single assessment, 10 per cent on the premium notes held by the corporation until the total of the fund reaches 2 per cent of the corporation insurance in force.

Investment
and income

(2) The fund shall be held for the security of the insured and is subject to the provisions of this Act relating to the investment of the funds of insurance companies.

Income part
of net
profits

(3) The income from the fund shall be included in the general receipts of the company and constitutes a part of the net profits, if any.

Use of
reserve fund

(4) The fund so accumulated shall be used for the payment of losses and expenses when the cash funds of the company in excess of an amount equal to its liabilities, including guarantee capital, if any, are exhausted, and, when the fund is drawn upon the allocation of profits or assessments as aforesaid, may be renewed or continued until the limit of accumulation is reached.

Reduction
of fund
prohibited

(5) The fund shall not be reduced by the payment of dividends to shareholders or members or by reduction of current premiums below the limit of 2 per cent of the insurance in force hereinbefore mentioned, but it may be increased beyond such limit if the company so desires.

Application
of section

(6) This section does not apply to corporations undertaking life insurance nor to purely mutual fire insurance corporations insuring risks other than mercantile or manufacturing, upon the premium note plan, nor to purely mutual live stock or weather insurance companies, carrying on business on the premium note plan. R.S.O. 1960, c. 71, s. 187.

Incorporation
of
fraternal
societies

188.—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than seventy-five, of twenty-one or more years of age, five of whom apply therefor, constituting such persons and any others who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purposes of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*.

R.S.O. 1960,
c. 190

Notice

(2) The applicants for incorporation, immediately before the application, shall publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply and shall also, if so required, publish elsewhere notice of such intention.

(3) The application for the incorporation of a fraternal society shall show, Particulars of application

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be its first trustees or managing officers;
- (d) such other information as the Provincial Secretary requires.

(4) The application shall be accompanied by the original membership book or list containing the signatures duly certified of at least seventy-five persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. R.S.O. 1960, c. 71, s. 188. Other documents

189. Within thirty days after the issue of the letters patent and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. R.S.O. 1960, c. 71, s. 189. Organization meeting

190.—(1) Where a fraternal society licensed under *The Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may apply to the Lieutenant Governor for the issue of a charter and, from the time of the issue of the letters patent, the applicants become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*. Incorporation of foreign fraternal society R.S.O. 1960, c. 190

(2) Subsection 1 of section 188 applies to an incorporation under this section. Application of s. 188 (1)

(3) Before the issue of the letters patent, evidence shall be produced to the Provincial Secretary that the approval of the Superintendent to the application has been secured. R.S.O. 1960, c. 71, s. 190. Approval of Superintendent

191. An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings. R.S.O. 1960, c. 71, s. 191. Incorporation of local branch

Amalgamation or reinsurance by fraternal society
R.S.O. 1960, c. 190

192.—(1) Subject to *The Insurance Act*, any fraternal society may amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure them with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Agreement for amalgamation, etc.

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved and that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society duly called. R.S.O. 1960, c. 71, s. 192.

Confirmation of mutual amalgamation

193. Subsection 4 of section 96 applies *mutatis mutandis* to the amalgamation of two or more fraternal societies. R.S.O. 1960, c. 71, s. 193.

Incorporation of mutual benefit society

194.—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under *The Insurance Act*, and the provisions of this Part relating to fraternal societies apply *mutatis mutandis* to the incorporation of mutual benefit societies and to such societies when incorporated.

Name

(2) The proposed name of a mutual benefit society incorporated under this Part shall include the words "mutual benefit". R.S.O. 1960, c. 71, s. 194.

Pension fund and employees' mutual benefit societies, application of ss. 196-207

195. Sections 196 to 207 apply to pension fund and employees' mutual benefit societies incorporated under this Part. R.S.O. 1960, c. 71, s. 195.

Interpretation

196. In this section and in sections 197 to 207,

- (a) "parent corporation" means a corporation any of whose officers establish a pension fund or employees' mutual benefit society under this Part;
- (b) "society" means a pension fund or employees' mutual benefit society incorporated under this Part;

- (c) "subsidiary corporation" means a corporation, wherever incorporated, at least 75 per cent of whose issued common shares are owned by a parent corporation. R.S.O. 1960, c. 71, s. 196.

197.—(1) The Lieutenant Governor may in his discretion, ^{Charter by letters patent} by letters patent, issue a charter to any number of persons, not fewer than five, of twenty-one or more years of age, two of whom are officers of a corporation legally transacting business in Ontario who apply therefor, constituting such persons and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time a pension fund or employees' mutual benefit society corporation.

(2) The application for the incorporation of a pension fund ^{Contents of application} or employees' mutual benefit society shall show,

- (a) its proposed name;
- (b) the name of its parent corporation;
- (c) the place in Ontario where its head office is to be situate;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not fewer than five, of those who are to be its first directors.

(3) Notice of the application for incorporation of a society ^{Notice} shall be published in at least four consecutive issues of *The Ontario Gazette* and the notice shall state,

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate; and
- (c) the name of its secretary. R.S.O. 1960, c. 71, s. 197.

198. The first directors have power to call the first meeting ^{First meeting} of the society and at such meeting directors may be elected and by-laws may be passed under this Act, and a copy of such by-laws shall be filed with the Provincial Secretary within two weeks after the passing thereof, and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom, shall also be filed with the Provincial Secretary within two weeks after the passing thereof. R.S.O. 1960, c. 71, s. 198.

Directors

199.—(1) The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications and for such period as are determined by the by-laws, but at the first meeting of the society five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner with such remuneration and under such provisions touching their powers and duties as are established by the by-laws.

Management
of fund by
trust
company

(2) The board of directors may by by-law entrust the whole or a part of the fund of the society to a trust company licensed under the law of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. R.S.O. 1960, c. 71, s. 199.

Interpre-
tation

200.—(1) In this section, “dependants” means the wives, husbands, and children under twenty-one years of age, including adopted children, of officers or employees within the meaning of this section.

Powers and
objects of
society

(2) After its incorporation, every pension fund and employees’ mutual benefit society has the power, by means of voluntary contribution or otherwise as its by-laws provide, to form a fund or funds and may invest, hold and administer the same and may therefrom,

- (a) provide for the support and payment of pensions and other benefits to officers and employees of the parent corporation and its subsidiary corporations who have retired or who cease to be employed by the parent corporation or one of its subsidiary corporations;
- (b) provide, in such manner as the by-laws specify, for the payment of pensions, annuities, gratuities or other benefits to the widows and children or other surviving relatives or legal representatives of officers and employees or retired officers and employees of the parent corporation and its subsidiary corporations who have died;
- (c) provide for the payment of benefits to officers and employees of the parent corporation or one of its subsidiary corporations by reason of illness, accident or disability;
- (d) provide for the payment of benefits by reason of illness, accident or disability to former officers and employees of the parent corporation and its subsidiary corporations who are retired;

- (e) provide for the payment of benefits to officers and employees or retired officers and employees of the parent corporation or one of its subsidiary corporations in respect of illness, accident or disability affecting dependants of such officers or employees; and
- (f) upon the death of such officers or employees, pay a funeral benefit in such manner as the by-laws specify. 1960-61, c. 13, s. 1.

201.—(1) A pension fund and employees' mutual benefit society has all corporate powers necessary for its purposes and may pass by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of, Power to pass by-laws

- (a) the society;
- (b) its individual members;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees; and
- (e) the parent corporation.

(2) Every such society may also make by-laws as aforesaid Additional by-laws
for,

- (a) the formation and maintenance of the fund;
- (b) the management and distribution of the fund;
- (c) the enforcement of any penalty or forfeiture in the premises; and
- (d) the government and ordering of all business and affairs of the society.

(3) No such by-law is effective unless it has been sanctioned by the board of directors of the parent corporation. R.S.O. 1960, c. 71, s. 201. Sanction of parent corporation

202. All the powers, authority, rights, penalties and forfeitures whatever of the society or of its members, officers or employees, or of such widows and children or other surviving relatives or legal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws are defined and limited. R.S.O. 1960, c. 71, s. 202. By-laws defining rights and remedies of beneficiaries, etc.

- Revenue** **203.** All the revenue of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects of the fund and to no other purpose. R.S.O. 1960, c. 71, s. 203.
- Contribution by parent corporation** **204.** The parent corporation may contribute annually or otherwise to the funds of the society by a vote of its directors or its shareholders. R.S.O. 1960, c. 71, s. 204.
- Prohibition against member assigning interest** **205.** The interest of a member in the funds of the society is not transferable or assignable by way of pledge, hypothecation, sale, security or otherwise. R.S.O. 1960, c. 71, s. 205.
- Special audit** **206.**—(1) Where it is shown to the satisfaction of the Provincial Secretary that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Provincial Secretary a requisition for audit bearing the signatures, addresses and callings of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Provincial Secretary specific fraudulent or illegal acts, or the repudiation of obligations, or insolvency, the Provincial Secretary may appoint one or more accountants or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Provincial Secretary.
- Security for costs** (2) Where an audit is requested, the persons requesting it shall, with their requisition, deposit with the Provincial Secretary security for the costs of the audit in such sum as he fixes, and, where the facts alleged in the requisition appear to the Provincial Secretary to have been partly or wholly disproved by the audit, he may pay the costs thereof partly or wholly out of the deposit.
- Duty to facilitate special audit** (3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power and shall produce for inspection and examination by the person so appointed such books, securities and documents as he requires.
- Expense of special audit** (4) Subject to subsection 2, the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Provincial Secretary, shall be paid by the society forthwith. R.S.O. 1960, c. 71, s. 206.
- Return to Provincial Secretary** **207.** A society formed under this Act shall at all times when thereunto required by the Provincial Secretary make a full return of its assets and liabilities and of its receipts

and expenditures for such period and with such details and other information as the Provincial Secretary requires. R.S.O. 1960, c. 71, s. 207.

208.—(1) In subsection 2, except in clause *o* thereof, ^{Interpre-}
 “insurer” shall be deemed to mean only a joint stock insurance tation
 company, fraternal society, mutual insurance corporation with
 guarantee capital stock or a cash-mutual insurance corporation,
 and, in clause *o* of subsection 2, “insurer” shall be deemed to
 mean only a joint stock insurance company or a cash-mutual
 insurance corporation. R.S.O. 1960, c. 71, s. 208 (1).

(2) Subject to subsections 3 to 15, an insurer incorporated ^{Powers of}
 under the law of Ontario may invest its funds, or any portion Ontario
 thereof, in the purchase of, insurers:

- (a) the bonds, debentures, stocks or other evidences of ^{government}
 indebtedness of or guaranteed by the government of securities
 - (i) Canada, Australia, Ceylon, India, New Zealand, Pakistan, the Union of South Africa, or the United Kingdom, or any province or state thereof, or Southern Rhodesia or the Republic of Ireland,
 - (ii) a colony of the United Kingdom,
 - (iii) the United States of America or a state thereof, or
 - (iv) a country in which the insurer is carrying on business, or a province or state thereof, or a colony, dependency, territory or possession thereof in which the insurer is carrying on business;
- (b) the bonds, debentures or other evidences of in- ^{municipal,}
 debtedness of or guaranteed by a municipal cor- etc.,
 poration in Canada or elsewhere where the insurer securities
 is carrying on business, or of a school corporation
 in Canada or elsewhere where the insurer is carrying
 on business, or secured by rates or taxes levied under
 the authority of the government of a province of
 Canada on property situate in such province and
 collectable by the municipalities in which such
 property is situate;
- (c) the bonds, debentures or other securities issued or ^{bonds, etc.,}
 guaranteed by the International Bank for Recon- issued or
 struction and Development established by the guaranteed
 Bank by Inter-
 national
 Bank

R.S.C. 1952,
c. 19

Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada, the United Kingdom, any member of the Commonwealth or the United States of America;

bonds
secured by
federal
payment

- (d) the bonds or debentures of a corporation that are secured by the assignment to a trust corporation in Canada of an annual payment that the Government of Canada has agreed to make, where such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;

bonds
secured by
provincial
subsidy

- (e) the bonds or debentures issued by a charitable, educational or philanthropic corporation where annual subsidies, sufficient to meet the interest as it falls due on the bonds or debentures and to meet the principal amount of the bonds or debentures on maturity, are, by virtue of a general or private Act of a province of Canada, payable by or under the authority of the province to a trust corporation as trustee for the holders of the bonds or debentures;

debentures
secured by
statutory
charge upon
real estate,
plant or
equipment

- (f) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in such bonds, debentures or other evidences of indebtedness upon the securities of that class of the corporation then outstanding;

revenue
bonds

- (g) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of a country in which the insurer is carrying on business, or of a province or state thereof, or of a colony, dependency, territory or possession thereof in which the insurer is carrying on business, to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity or gas services

or facilities and, for any of these purposes, to levy, impose or make taxes, rates, fees or other charges that,

- (i) may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges, or
 - (ii) in the case of an authority constituted by an Act of a national government, are fixed or authorized by law or subject to the approval of the government or a minister or ministry thereof or of a body responsible to the government or the minister or ministry; R.S.O. 1960, c. 71, s. 208 (2), cls. (a-g).
- (h) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by a mortgage, charge or hypothec to the insurer upon real estate or to a trustee upon any, or upon any combination, of the following assets,
- (i) real estate,
 - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection as investments, or cash balances,

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment; 1962-63, c. 24, s. 7 (1).

- (i) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada or the United States of America to be used on railways or public highways, if the obligations or certificates are fully secured by,
 - (i) an assignment of the transportation equipment to, or the ownership thereof, by the trustee, and

- (ii) a lease or conditional sale thereof by the trustee to the corporation; 1962-63, c. 24, s. 7 (2).

debentures

- (j) the bonds, debentures or other evidences of indebtedness,

- (i) of a corporation that has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares or a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid, or

- (ii) of or guaranteed by a corporation where its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporations shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability; R.S.O. 1960, c. 71, s. 208 (2), cl. (j).

guaranteed
investment
certificates

- (ja) guaranteed investment certificates issued by a trust company incorporated in Canada that, at the date of the investment by the insurer therein, complied

with the requirements described in subclause *i* of clause *j* in respect of the payment of dividends; 1962-63, c. 24, s. 7 (3).

- (*k*) the preferred shares of a corporation that has paid, ^{preferred shares}
 - (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
 - (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid;
- (*l*) the fully-paid common shares of a corporation that, ^{common shares} in each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least 4 per cent of the average value at which the shares were carried in its capital stock account during the year in which the dividend was paid; R.S.O. 1960, c. 71, s. 208 (2), cls. (*k*, *l*).
- (*m*) ground rents, mortgages or hypothecs on real estate ^{real estate mortgages} in Canada or elsewhere where the insurer is carrying on business, but the amount paid for the mortgage or hypothec together with the amount of indebtedness under any mortgage or hypothec on the real estate ranking superior to the mortgage or hypothec in which the investment is made shall not exceed 66 $\frac{2}{3}$ per cent of the value of the real estate covered thereby; R.S.O. 1960, c. 71, s. 208 (2), cl. (*m*); 1960-61, c. 13, s. 2 (1).
- (*n*) mortgages or hypothecs on real estate or leaseholds ^{guaranteed or insured real estate mortgages} in Canada or elsewhere where the insurer is carrying on business or bonds or notes secured by such mortgages or hypothecs, notwithstanding that the mortgage or hypothec exceeds the amount that the insurer is otherwise authorized to invest, if the excess is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country; or R.S.O. 1960, c. 71, s. 208 (2), cl. (*n*).

real estate
for the
production
of income

- (o) real estate or leaseholds for the production of income in Canada or elsewhere where the insurer is carrying on business, either alone or jointly with any other insurer or with any loan company or trust company incorporated in Canada, if,
 - (i) a lease of the real estate or leasehold is made to, or guaranteed by, a corporation that, at the date of the investment by the insurer therein, complied with the requirements described in subclause i of clause j in respect of the payment of dividends,
 - (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested by the insurer in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and
 - (iii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed 1 per cent of the book value of the total assets of the insurer,

and the insurer may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold, 1962-63, c. 24, s. 7 (4).

lending
funds:

and may lend its funds or any portion thereof on the security of,

authorized
securities

- (p) any of the bonds, debentures or other evidences of indebtedness, shares or other securities in which the insurer may invest its funds under this subsection, but the amount of the loan, together with the amount invested therein, if any, shall not exceed in the aggregate the amount that might be invested therein under this section; R.S.O. 1960, c. 71, s. 208 (2), cl. (p).

real estate
mortgages

- (q) real estate or leaseholds for a term of years or other estate or interest in real estate in Canada or elsewhere where the insurer is carrying on business, but the amount of the loan together with the amount of indebtedness under any mortgage or hypothec on the real estate or interest therein ranking superior to the loan shall not exceed 66⅔ per cent of the value of the real estate or interest therein, subject to the exception that an insurer may accept as part

payment for real estate sold by it a mortgage or hypothec for more than $66\frac{2}{3}$ per cent of the sale price of the real estate; or R.S.O. 1960, c. 71, s. 208 (2), cl. (g); 1960-61, c. 13, s. 2 (2).

- (r) real estate or leaseholds in Canada or elsewhere where the insurer is carrying on business, notwithstanding that the loan exceeds the amount that the insurer is otherwise authorized to lend, if, to the extent of the excess, the mortgage or hypothec thereon securing the loan is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country. R.S.O. 1960, c. 71, s. 208 (2), cl. (r). guaranteed or insured real estate mortgages

(3) Where an insurer owns securities of a corporation and where as a result of a *bona fide* arrangement for the reorganization or liquidation of the corporation or for the amalgamation of the corporation with another corporation such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not eligible as investments under subsection 2, the insurer may accept such bonds, debentures or other evidences of indebtedness or shares, but they shall be allowed as an asset of the insurer, in the annual report prepared by the Superintendent for the Minister, only for a period of five years after their acceptance, or such further period as the Lieutenant Governor in Council determines, unless it is shown to the satisfaction of the Lieutenant Governor in Council that such bonds, debentures or other evidences of indebtedness or shares are not inferior in status or value to the securities for which they have been substituted or unless they become eligible as investments under subsection 2. R.S.O. 1960, c. 71, s. 208 (3); 1962-63, c. 24, s. 7 (5). Securities received on reorganization, liquidation or amalgamation

(4) A joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not authorized by subsection 2, including investments in real estate or leaseholds, subject to the following: Other assets

1. Investments in real estate or leaseholds under this subsection shall be made only for the production of income, and may be made by the insurer in Canada or elsewhere where the insurer is carrying on business either alone or jointly with any other insurer, and the insurer may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total invest- Real estate for the production of income

ment of an insurer under this subsection in any one parcel of real estate or in any one leasehold shall not exceed one-half of 1 per cent of the book value of the total assets of the insurer.

Exceptions

2. This subsection shall be deemed not to enlarge the authority conferred by subsection 2 to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds.

Limitation

3. The total book value of the investments and loans made under this subsection and held by the insurer, excluding those that are or at any time since acquisition have been eligible apart from this subsection, shall not exceed 5 per cent of the book value of the total assets of the insurer. R.S.O. 1960, c. 71, s. 208 (4); 1962-63, c. 24, s. 7 (6).

Life insurance policies

- (5) An insurer licensed to transact the business of life insurance may invest or lend its life insurance funds or any portion thereof in the purchase of or on the security of policies of life insurance issued by the insurer or by any other insurer licensed to transact the business of life insurance in Ontario.

National Housing Acts

- (6) Notwithstanding anything in this Act or in any other Act, an insurer incorporated under the law of Ontario,

1953-54, c. 23 (Can.)

- (a) may lend its funds or any portion thereof on the security of real estate pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, or may make loans on the security of real estate or leaseholds or other estate or interest therein in excess of 60 per cent of the value of the real estate or interest therein that forms the security for such loan or in excess of the amount that may be loaned in accordance with that Act or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant Governor in Council or by a municipality under *The Housing Development Act*;

R.S.O. 1960, c. 182

- (b) may, if it is incorporated for the purpose of undertaking life insurance, cause to be formed, or may join with one or more life insurance corporations in forming one or more institutional holding companies and one or more institutional housing corporations as defined in *The National Housing Act, 1944* (Canada), and may invest its funds in shares or debentures of such holding companies and in shares of such housing corporations to an aggregate amount that, when added to the aggregate amount invested

1944-45, c. 46 (Can.)

by such insurer under clause *c*, does not exceed 5 per cent of its total assets in Canada allowed by the Superintendent; and

- (*c*) may, if it is incorporated for the purpose of undertaking life insurance, invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in any other classes or types of investment pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, including the purchase of land, the improvement thereof, construction of buildings thereon, and the management and disposal of such land and buildings.

1953-54,
c. 23 (Can.)

(7) The total book value of the investments of an insurer in common shares shall not exceed 15 per cent of the book value of the total assets of the insurer. R.S.O. 1960, c. 71, s. 208 (5-7).

Limitation
of invest-
ment in
common
shares

(8) The total book value of the investments of a joint stock insurance company or a cash-mutual insurance corporation in real estate or leaseholds for the production of income under this section shall not exceed 10 per cent of the book value of the total assets of the insurer. R.S.O. 1960, c. 71, s. 208 (8); 1962-63, c. 24, s. 7 (7).

Limitation
of invest-
ment in
real estate
for the
production
of income

(9) An insurer shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default.

No invest-
ment in
securities
in default

(10) All investments and deposits of the funds of an insurer shall be made in its corporate name, and no director or other officer thereof and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that, if he is a policyholder, he is entitled to all the benefits accruing under the terms of his contract. R.S.O. 1960, c. 71, s. 208 (9, 10).

Investments
in corporate
name only

(11) No insurer shall,

Prohibitions
and
restrictions

- (*a*) invest in or loan its funds upon the security of its own shares or the shares of a company transacting the business of insurance, except that, subject to

subsection 7 and to clause *c* of this subsection, an insurer licensed to transact the business of life insurance may invest its life insurance funds in the shares of a company transacting the business of insurance other than life insurance; or

- (b) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Canada, invest money in any one security or make a total investment in any one corporation including the purchase of its shares or other securities, the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of more than 10 per cent of its funds; or
- (c) except as to securities of or guaranteed by the Government of Canada, or the government of a province of Canada, or a municipal corporation in Canada, make any investment the effect of which will be that such insurer will hold more than 20 per cent of the common shares or 20 per cent of the total issue of shares of any one company; or
- (d) lend any of its funds to a director or officer thereof or to the wife or a child of such director or officer except, in the case of an insurer undertaking contracts of life insurance, on the security of its own policies, nor shall an insurer lend any of its funds to a company if more than one-half of the shares of the capital stock of the company are owned by a director or officer of the insurer or the wife or a child of a director or officer, or by any combination of such persons; or
- (e) subscribe to or participate in or employ the funds of the insurer in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the insurer, enter into any transaction for such purchase or sale on account of such insurer, jointly with any other person, firm or corporation, but this clause shall not be deemed to prohibit the subscription for bonds or securities permitted by this section as a *bona fide* permanent investment on behalf of any such insurer. R.S.O. 1960, c. 71, s. 208 (11); 1964, c. 10, s. 5.

Interest in
forming
other
companies

(12) Except for the *bona fide* purpose of protecting investments previously made by it, and subject to the approval of the Lieutenant Governor in Council, no insurer shall, nor

shall its directors or officers or any of them on its behalf, under colour of an investment of the insurer's funds, directly or indirectly be employed, concerned or interested in the formation or promotion of any other corporation, but nothing in this subsection shall be deemed to prohibit insurers investing their funds in securities of a new corporation as provided in subsection 2.

(13) An insurer may take any additional securities of any nature to further secure repayment of any liability thereto, or to further secure the sufficiency of any of the securities in or upon which it is by this section authorized to invest or lend any of its funds. Additional security to secure repayment of liabilities

(14) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section enlarges the power of investment. By-laws to prevail

(15) The Superintendent may request an insurer to dispose of and realize any of its investments acquired after the 1st day of May, 1928, and not authorized by this section, and such insurer shall within sixty days after receiving such request absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by such insurer for such investments, the directors of the insurer are jointly and severally liable for the payment to such insurer of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment and is able to do so, enters on the minutes of the board of directors his protest against such investment, and, within eight days thereafter, gives notice of his protest by registered letter to the Superintendent, such director thereby and not otherwise exonerates himself from such liability. R.S.O. 1960, c. 71, s. 208 (12-15). Disposal of unauthorized investments

209. Insurers, other than those mentioned in subsection 1 of section 208, may invest their funds in any securities in which trustees may invest trust funds under *The Trustee Act*. R.S.O. 1960, c. 408. Other insurers

210.—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate When charter to be forfeited for non-user or discontinuance

powers *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding in which such non-user is alleged, proof of user is upon the insurer, and the Supreme Court, upon the petition of the Attorney General or of any person interested, may limit the time within which the insurer is to settle and close its accounts, and may, for that purpose or for the purpose of liquidation generally, appoint a receiver.

**Rights of
creditors**

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture. R.S.O. 1960, c. 71, s. 210.

**Interpre-
tation**

211. In sections 212 to 218, "shareholder" includes member and participating policyholder eligible to vote for a policyholders' director. R.S.O. 1960, c. 71, s. 211.

**Information
laid before
annual
meetings of
life insurers**

212.—(1) The directors of an insurer undertaking and transacting life insurance shall lay before each annual meeting of shareholders,

- (a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting or commencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,
 - (i) a statement of revenue and expenditure for such period,
 - (ii) a statement of surplus for such period,
 - (iii) a balance sheet made up to the end of such period;
- (b) the report of the auditor to the shareholders;
- (c) such further information respecting the financial position of the insurer as the letters patent, supplementary letters patent or by-laws of the insurer require.

**Contents of
financial
statement**

(2) The statements referred to in the subclauses of clause *a* of subsection 1 shall comply with and be governed by sections 213 to 217, but it is not necessary to designate them the statement of revenue and expenditure, statement of surplus and balance sheet.

(3) The statement of surplus referred to in subclause ii of clause *a* of subsection 1 and the information required by subsections 2 and 3 of section 214 may be incorporated in and form part of the statement of revenue and expenditure referred to in subclause i of clause *a* of subsection 1. Incorporation of statements

(4) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. R.S.O. 1960, c. 71, s. 212. Auditor's report to be read

213.—(1) The statement of revenue and expenditure to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the insurer for the period covered by the statement and so as to distinguish severally at least, Statement of revenue and expenditure

- (a) premium income;
- (b) income from invested assets;
- (c) profit or loss from sale of invested assets;
- (d) amounts by which values of invested assets are increased or decreased;
- (e) payments to policyholders and beneficiaries, other than the disbursement of moneys previously left on deposit;
- (f) increase or decrease in actuarial liability under insurance and annuity contracts;
- (g) total remuneration of directors as such from the insurer, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (h) premium taxes;
- (i) head office, agency, investment and other operating expenses;
- (j) the amount transferred to or from general surplus.

(2) Notwithstanding subsection 1, items of the nature described in clauses *d* and *g* of subsection 1 may be shown by way of note to the statement of revenue and expenditure. R.S.O. 1960, c. 71, s. 213. Notes

214.—(1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in it and shall show separately a statement of general surplus and a statement of shareholders' surplus, howsoever designated. Statement of surplus

General
surplus

(2) The statement of general surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of each amount making up the total of general surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
 - i. The amount shown on the statement of revenue and expenditure as transferred to or from general surplus.
 - ii. The amount of surplus arising from the issue of shares or the reorganization of the insurer's issued capital, including *inter alia*,
 - (a) the amount of premiums received on the issue of shares at a premium;
 - (b) the amount of surplus realized on the purchase for cancellation of shares.
 - iii. Donations of cash or other property by shareholders.
3. The balance of each amount making up such general surplus as shown in the balance sheet at the end of the financial period.

Share-
holders'
surplus

(3) The statement of shareholders' surplus shall be drawn so as to distinguish at least the following items:

1. The balance of such surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
 - i. The amount transferred to or from general surplus.
 - ii. Provision for taxes on income.
 - iii. The amount of dividends declared on each class of shares.
3. The balance of such surplus as shown in the balance sheet at the end of the financial period. R.S.O. 1960, c. 71, s. 214.

215.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the insurer as at the date to which it is made up and so as to distinguish severally at least the following: ^{Balance sheet:}

1. The invested assets of the insurer as described in section 208 severally designated as follows:
 - i. Cash.
 - ii. Preference and common shares.
 - iii. Bonds and debentures.
 - iv. Mortgages.
 - v. Real estate held for sale.
 - vi. Real estate held for the production of income.
 - vii. Head office buildings.
 - viii. Agreements for sale.
 - ix. Loans on policies.
 - x. Other invested assets stating their nature.
2. Other assets of the insurer distinguishing severally at least the following:
 - i. Net outstanding premiums due and deferred.
 - ii. Interest and rents due and accrued.
 - iii. Debts owing to the insurer from its shareholders except debts of reasonable amount arising in the ordinary course of the insurer's business that are not overdue having regard to the insurer's ordinary terms of credit.
 - iv. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 23.
3. The actuarial liability under insurance and annuity contracts.
4. Bank loans and overdrafts.
5. Provision for unpaid and unreported claims.
6. All other liabilities to policyholders.

7. Debts owing by the insurer on loans from its directors, officers or shareholders.
8. Commissions and other debts owing by the insurer segregating those that arose otherwise than in the ordinary course of business.
9. Deferred income.
10. Liability for taxes.
11. Dividends on capital stock declared but not paid.
12. The authorized capital, giving the number of each class of shares and a brief description of each such class and indicating therein any class of shares which is redeemable and the redemption price thereof.
13. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
 - (b) where any shares have not been fully paid,
 - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
14. Reserves, as described in clauses *a*, *b* and *c* of subsection 1 of section 218, showing the amounts added thereto and the amounts deducted therefrom during the financial period.
15. The amounts making up the surplus of the insurer severally designated as follows:

- i. General surplus.
- ii. Shareholders' surplus.
- iii. Other surplus balances indicating their nature.

(2) Notwithstanding subsection 1, particulars of the items^{Notes} described in paragraphs 12 and 13 of subsection 1 may be shown by way of note to the balance sheet.

(3) The basis of valuation of the invested assets of the^{Idem} insurer shall be shown by way of note to the balance sheet. R.S.O. 1960, c. 71, s. 215.

216.—(1) There shall be stated by way of note to the^{Notes to financial statement} financial statement particulars of any change in accounting or actuarial principle or practice or in the method of applying any accounting or actuarial principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the results of operations for the period.

(2) Where applicable, the following matters shall be referred^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the insurer.
3. Contractual obligations that will require abnormal expenditures in relation to the insurer's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
5. Any liability secured otherwise than by operation of law on any asset of the insurer, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
6. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.

7. Where an insurer has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.

8. Any restriction by the letters patent, supplementary letters patent or by-laws of the insurer or by contract on the payment of dividends that is significant in the light of the insurer's financial position.

Idem

(3) Every note to a financial statement is an integral part of it. R.S.O. 1960, c. 71, s. 216.

Insignificant circumstances

217. Notwithstanding sections 213 to 216, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. R.S.O. 1960, c. 71, s. 217.

Reserves

218.—(1) In a financial statement, the term "reserve" shall be used to describe only,

- (a) amounts appropriated from surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the insurer for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from surplus in accordance with the terms of a contract and which can be restored to the surplus when the conditions of the contract are fulfilled.

Idem

(2) Notwithstanding subsection 1, the term "reserve" may be used to describe the actuarial liability under insurance and annuity contracts. R.S.O. 1960, c. 71, s. 218.

Auditor's report, joint stock insurance companies and cash mutuels

219. The auditor of a joint stock insurance company or a cash mutual insurance corporation shall in the report required to be made by subsection 2 of section 82 also make such statements as he considers necessary,

- (a) if, in the case of corporations transacting other than life insurance, the provision for unearned premiums is not calculated as required by *The Insurance Act*; R.S.O. 1960, c. 190
- (b) if the provision for unpaid claims, in his opinion, is not adequate;
- (c) if the financial statement includes as assets items prohibited by *The Insurance Act* from being shown in the annual statements required to be filed thereunder; or
- (d) if any of the transactions of the corporation that have come to his notice have not been within its powers. R.S.O. 1960, c. 71, s. 219.

220. Every insurer shall deliver to the Superintendent Delivery of by-laws to Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. R.S.O. 1960, c. 71, s. 220.

221. A copy of every balance sheet or other statement Balance sheets and statements published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent, concurrently with its issue to its shareholders or policyholders, or to the general public. R.S.O. 1960, c. 71, s. 221.

222. A person who fails to comply with section 219, 220 Offence or 221 shall be deemed to be guilty of an offence under *The Insurance Act*. R.S.O. 1960, c. 71, s. 222.

223. Subject to section 224, no person is eligible to become Directors of joint stock insurance company, qualifications or shall be elected a director of a joint stock insurance company unless he is twenty-one or more years of age and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$500 has been paid in and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. R.S.O. 1960, c. 71, s. 223; 1962-63, c. 24, s. 8.

224.—(1) A joint stock life insurance company may, Shareholders' directors; policyholders' directors by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives

are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

Number of
directors;
vacancies

(2) A by-law passed under subsection 1 shall provide for the election of not fewer than nine and not more than twenty-one directors, of whom not less than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors.

Participat-
ing policy-
holders'
right to vote

(3) Participating policyholders are entitled to attend and vote in person and not by proxy at all general meetings of the company, but as such are not entitled to vote for the election of shareholders' directors, but this section does not confer rights or impose liabilities on such participating policyholders in a liquidation of the company.

Policy-
holders'
director,
qualifi-
cations

(4) A holder of a participating policy or participating policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder and who has paid premiums on such policy or policies for at least three full years is eligible for election as a policyholders' director.

Annual
meeting

(5) Such a life insurance company shall have a fixed time in each year for its annual meeting and such time shall be printed in prominent type on each premium notice or each premium receipt issued by the company, and, in addition to all other notices required to be given by this Act, it shall give fifteen days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. R.S.O. 1960, c. 71, s. 224.

Conversion
of joint
stock life
companies
into mutual
companies
R.S.O. 1960,
c. 190

224a. Notwithstanding anything in the letters patent incorporating the company or in its by-laws or in this Act, a joint stock life insurance company may, with the permission of the minister charged with the administration of *The Insurance Act*, establish and implement a plan for the conversion of the company into a mutual company by the purchase of shares of the capital stock of the company in accordance with the Schedule to this Act. 1962-63, c. 24, s. 9.

Interpre-
tation

225. In sections 226 to 237,

(a) "deposit" means the deposit required under section 41 of *The Insurance Act*;

- (b) "insured person" means a person who enters into a subsisting contract of insurance with an insurer and includes,
- (i) every person insured by a contract whether named or not,
 - (ii) every person to whom or for whose benefit all or part of the proceeds of a contract of insurance are payable, and
 - (iii) every person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 223 of *The Insurance Act*; R.S.O. 1960, c. 190
- (c) "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;
- (d) "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of *The Insurance Act*;
- (e) "Ontario contract" means a subsisting contract of insurance that,
- (i) has for its subject,
 - a. property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or
 - b. the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario, or
 - (ii) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;
- (f) "reciprocal deposit" means a deposit of an insurer held under section 69 or 70 of *The Insurance Act*;

- (g) "reciprocating province" means a province that has been declared to be a reciprocating province under clause *a* of subsection 1 of section 69 or subsection 1 of section 70 of *The Insurance Act*, with respect to the deposit of a particular insurer. R.S.O. 1960, c. 71, s. 225.

R.S.O. 1960,
c. 190

Application
of Part VII

226.—(1) The provisions of Part VII relating to the winding up of corporations apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Interpre-
tation

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of sections 227 to 240 means only the insurance branch of the company, corporation or society. R.S.O. 1960, c. 71, s. 226.

Winding up
by order of
court on
application
of Superin-
tendent

227.—(1) An insurer incorporated in Ontario may also be wound up by order of the Supreme Court on the application of the Superintendent, if the court is satisfied that,

- (a) the insurer has failed to exercise its corporate powers during any continuous period of four years; or
- (b) the insurer has not commenced business or gone into actual operation within four years after it was incorporated; or
- (c) the insurer has discontinued business for one year after it has undertaken insurance contracts within the meaning of *The Insurance Act*; or
- (d) the insurer's licence has been suspended for one year or more; or
- (e) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by *The Insurance Act* or by its Act of incorporation or by any special Act applicable thereto; or
- (f) other sufficient cause has been shown.

Approval of
Lieutenant
Governor
in Council

(2) No such application shall be made by the Superintendent without the approval of the Lieutenant Governor in Council.

(3) Upon the making of an order under this section, the provisions of Part VII relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. R.S.O. 1960, c. 71, s. 227. Application of Part VII

228.—(1) In the case of an insurer incorporated in Ontario, Provisional liquidator, appointment

(a) if its licence expires and,

(i) the insurer fails to renew within the period limited by *The Insurance Act*, or R.S.O. 1960, c. 190

(ii) a renewal is refused; or

(b) if its licence is cancelled,

the Minister may appoint a provisional liquidator who shall take charge of the affairs of the company and may direct that it be wound up forthwith under this Act.

(2) Until a permanent liquidator is appointed, the provisional liquidator shall exercise all the powers of the insurer and none of the officers or servants of the insurer shall make any contract for, incur any liability on behalf of, or expend any moneys of, the insurer without the approval of the provisional liquidator. powers

(3) The provisional liquidator shall petition the Supreme Court for a winding-up order, and, if the court is of the opinion that it is just and equitable so to do, it may make an order winding up the company and thereupon the provisions of this Act relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. Petition by provisional liquidator for winding-up order

(4) The provisional liquidator or the liquidator, notwithstanding this Act, but, subject to the approval of the Supreme Court, may sell the business and undertaking of the company as a going concern. R.S.O. 1960, c. 71, s. 228. Sale of business

229.—(1) The remuneration to be paid to a provisional liquidator appointed under subsection 1 of section 228 shall be fixed by the Minister. Remuneration of provisional liquidator

(2) The remuneration and all expenses and outlay in connection with the appointment of the provisional liquidator, together with all expenses and outlay of the provisional liquidator while he acts in that capacity, shall be borne and paid by the insurer and form a first lien or charge upon the assets of the insurer, other than the deposit, unless otherwise directed under subsection 3. Payment of costs of provisional liquidator

Payment of
cost of
provisional
liquidator
out of
deposit

R.S.O. 1960,
c. 190

(3) The Minister in his discretion may direct that the remuneration, expenses and outlay shall be paid out of the proceeds of the deposit made by the insurer, and in that case the amount directed to be paid has the same priority as the expenses of the receiver administering the deposit as fixed by clause *a* of section 58 of *The Insurance Act*. R.S.O. 1960, c. 71, s. 229.

Notice of
intention
to cease
writing
insurance or
to consider
voluntary
liquidation

230.—(1) When an insurer incorporated under or subject to the law of Ontario proposes to cease writing insurance or to call a general meeting to consider a resolution for its voluntary liquidation under this Act, it shall give at least one month's notice in writing thereof to the superintendent of insurance of each province in which the insurer is licensed.

Notice to
Superinten-
dent of
voluntary
winding up

(2) When an insurer has passed a resolution for voluntary winding up, the insurer shall notify the Superintendent thereof and of the date on which contracts of insurance will cease to be entered into by the insurer and of the name and address of its liquidator.

Publication
of notice

(3) The notice under subsection 2 shall also be published by the insurer in two consecutive issues of *The Ontario Gazette* and the official gazette of each other province in which the insurer is licensed and in such newspapers and other publications as the Superintendent requires. R.S.O. 1960, c. 71, s. 230.

Reinsurance

231.—(1) The provisional liquidator or the liquidator, before any order granting administration of the deposit and before the fixing of a termination date pursuant to section 233, may arrange for the reinsurance of the subsisting contracts of insurance of the insurer with some other insurer licensed in Ontario.

Funds
available for
reinsurance

(2) For the purpose of securing the reinsurance, the following funds shall be available:

1. The entire assets of the insurer in Ontario other than the deposit except the amount reasonably estimated by the provisional liquidator or the liquidator as being required to pay,
 - (a) the costs of the liquidation or winding up;
 - (b) all claims for losses covered by the insurer's contracts of insurance of which notice has been received by the insurer or provisional liquidator or liquidator before the date on which the reinsurance is effected;

- (c) the claims of the preferred creditors who are the persons paid in priority to other creditors under the winding up provisions of this Act,

all of which shall be a first charge on the assets of the insurer, other than the deposit.

2. All or such portion, if any, of the deposit as is agreed upon pursuant to subsection 3.

(3) If it appears necessary or desirable to secure reinsurance for the protection of insured persons entitled to share in the proceeds of the deposit, the Minister, on the recommendation of the Superintendent, or, in the case of a reciprocal deposit, the superintendents of insurance of the reciprocating provinces, may enter into an agreement with the provisional liquidator or the liquidator, whereby, pursuant to section 47 or 71 of *The Insurance Act*, all or any part of the securities in the deposit may be used for the purpose of securing the reinsurance.

Agreement
for use of
deposit for
reinsurance

R.S.O. 1960,
c. 190

(4) The creditors of the insurer, other than the insured persons and the said preferred creditors, are entitled to receive a payment on their claims only if provision has been made for the payments mentioned in subsection 2 and for the reinsurance.

Payments
to creditors
other than
preferred
creditors

(5) If, after providing for the payments mentioned in subsection 2, the balance of the assets of the insurer, together with all or such portion, if any, of the deposit as is agreed upon under subsection 3, is insufficient to secure the reinsurance of the contracts of the insured persons in full, the reinsurance may be effected for such portion of the full amount of the contracts as is possible.

Reinsurance
of part of
contracts

(6) No contract of reinsurance shall be entered into under this section until it is approved by the Supreme Court.

Approval

R.S.O. 1960, c. 71, s. 231.

232.—(1) In the winding up of an insurer that has made a deposit pursuant to *The Insurance Act*, if the person appointed as receiver to administer the deposit pursuant to section 52 of *The Insurance Act* is not the person appointed as the provisional liquidator or the liquidator under *The Insurance Act* or this Act or appointed as the liquidator under the *Winding-up Act* (Canada), as the case may be, the Supreme Court at any time in its discretion may order that the deposit and the administration thereof be transferred from the receiver to the provisional liquidator or the liquidator.

Transfer of
deposit from
receiver to
provisional
liquidator or
liquidator

R.S.C. 1952
c. 296

Administra-
tion of
deposit

(2) Upon the making of an order under subsection 1, the provisional liquidator or the liquidator shall administer the deposit for the benefit of the persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act.

Costs of
administra-
tion of
deposit

(3) The amount payable to the provisional liquidator or the liquidator for administering the deposit and all costs and expenses incurred by him in administering the deposit shall be paid out of the deposit in accordance with the priorities fixed by clause *a* of section 58 of *The Insurance Act*, but the amount payable to the provisional liquidator or the liquidator and all costs and expenses incurred by him in the winding up of the insurer shall not be paid out of the deposit but shall be paid out of and are a first charge on the assets of the insurer except as provided in subsection 3 of section 229. R.S.O. 1960, c. 190, s. 232.

Termination
date, where
reinsurance
not
arranged

233.—(1) If the provisional liquidator or the liquidator fails to secure reinsurance, or if in his opinion it is impracticable or inexpedient to arrange for reinsurance, he,

- (a) with the approval of the Supreme Court and subject to such terms as are prescribed by it; and
- (b) for the purpose of securing the payment of existing claims and avoiding further losses,

may publish a notice fixing a termination date for the subsisting contracts of insurance of such insurer, and on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination
of Ontario
contracts,
where ter-
mination
date fixed
in another
province

(2) Where a provisional liquidator or a liquidator has been appointed in another province to wind up an insurer incorporated in that province, and if such provisional liquidator or liquidator fixed a termination date for the contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

Where
termination
date fixed
by receiver

(3) Where a receiver administering a deposit has fixed a termination date under section 53 of *The Insurance Act*, the termination date fixed under this section applies only to those contracts of insurance not already terminated on the date fixed by the receiver. R.S.O. 1960, c. 71, s. 233.

Publication
of notice of
termination
date

234. The provisional liquidator or the liquidator shall cause the notice,

- (a) to be published in *The Ontario Gazette* and in the official gazette of each other province in which the insurer is licensed and in such newspapers as the Supreme Court directs in order to give reasonable notice of the termination date so fixed; and
- (b) to be mailed to each policyholder at his address as shown on the books and records of the company.
R.S.O. 1960, c. 71, s. 234.

235.—(1) The liquidator shall pay or set aside from the assets of the insurer sums in his opinion sufficient to pay, Payment of claims for losses and preferred claims, etc.

- (a) the costs of the liquidation or winding up;
- (b) all claims for losses covered by the insurer's contracts of insurance that occurred before the termination date fixed under section 53 of *The Insurance Act* or section 233 of this Act and that have not been paid or provided for in the administration of the deposit and of which notice has been received by the insurer or the liquidator; R.S.O. 1960, c. 190
- (c) the full amount of the legal reserve in respect of each unmatured life insurance contract; and
- (d) the claims of preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act.

(2) Except in the case of life insurance, the assets remaining after payment or making provision for payment of the amounts mentioned in subsection 1 shall be used to pay the claims of the insured persons for refunds of unearned premiums on a *pro rata* basis in proportion to the periods of their contracts respectively unexpired on the termination dates to the extent that those claims have not been paid or provided for in the administration of the deposit. Refund of unearned premiums

(3) The claims of the insured persons for refunds of unearned premiums shall be calculated, Calculation of unearned premium claims

- (a) as at the termination date fixed under section 53 of *The Insurance Act* or section 233 of this Act; or
- (b) as at the date the insured person cancelled the contract,

whichever date is the earlier.

Effect of
refund

(4) The refund of all or a portion of the premium does not destroy or defeat any other remedy the insured person may have against the insurer in respect thereof or for any other cause.

Effect of
section

(5) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer. R.S.O. 1960, c. 71, s. 235.

Payment of
provincial
fees and
taxes, etc

236. The fees, taxes and costs payable by the insurer to each province shall be paid out of the assets of the insurer remaining after the reinsurance of the subsisting contracts of insurance of the insurer or after the payment of the claims of policyholders for refund of unearned premiums, as the case may be, and the balance shall be distributed among the creditors of the insurer other than the insured persons, preferred creditors and the several provinces. R.S.O. 1960, c. 71, s. 236.

Filing of
statements
by liqui-
dator

237.—(1) Unless otherwise ordered by the Supreme Court, within seven days after the close of each period of three months and until the affairs of the insurer are wound up and the accounts are finally closed, the liquidator shall file with the court or other authority appointing him and also with the Superintendent detailed schedules, in such form as is required, showing,

(a) receipts and expenditures; and

(b) assets and liabilities.

Production
of books,
etc., by
liquidator

(2) The liquidator, whenever he is required so to do by the authority appointing him or by the Minister, shall exhibit the office books and vouchers and furnish such other information respecting the affairs of the insurer as is required.

Offence

(3) Every liquidator refusing or neglecting to furnish such information is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 and in addition is liable to be dismissed or removed. R.S.O. 1960, c. 71, s. 237.

Distribution
of endow-
ment and
expectancy
funds

238.—(1) Where a fraternal society transacts endowment or expectancy insurance and has an endowment fund separate and distinct from its life insurance fund, the society may, by resolution duly passed at a general meeting, after at least one month's notice of such intended resolution, determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata*

among the members then in good standing who are contributing to such fund according to the total contribution of such member.

(2) After the resolution has been assented to by the Superintendent and filed with the Provincial Secretary, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled, and such distribution discharges the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society. Procedure

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts, the general meeting, instead of determining to distribute the endowment or expectancy fund, may determine to convert it into or merge it in a life insurance fund, and after the resolution has been assented to and filed as provided in subsection 2, the endowment or expectancy fund becomes a life insurance fund. Merger of funds
R.S.O. 1960, c. 71, s. 238.

239. Notwithstanding anything in this Act or in *The Insurance Act*, where an insurer is being wound up voluntarily, the Superintendent may renew or extend the licence of the insurer for the purposes of its winding up. Extension of licence
R.S.O. 1960,
c. 190
R.S.O. 1960, c. 71, s. 239.

240. The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators are *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. Books, etc.,
as evidence
R.S.O. 1960, c. 71, s. 240.

PART VII

WINDING UP

241. In this Part, "contributory" means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Part. Interpre-
tation
R.S.O. 1960, c. 71, s. 241.

242. This Part applies,

Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;

- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends;
- (c) to every corporation incorporated by or under a general or special Act of this Legislature;
- (d) to every insurer within the meaning of Part VI that is incorporated under or subject to this Act except where inconsistent with Part VI;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 242.

R.S.O. 1960,
c. 222

Voluntary
winding up

243.—(1) Where the shareholders or members of a corporation by a majority of the votes cast at a general meeting called for that purpose pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Appoint-
ment of
liquidator

(2) At such meeting the shareholders or members shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up. R.S.O. 1960, c. 71, s. 243.

Publica-
tion of
notice of
winding up

244.—(1) Notice of a resolution requiring the voluntary winding up of a corporation shall be filed with the Provincial Secretary and be published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been passed.

Offence

(2) A corporation that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 244.

Inspectors

245. A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors,

hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1960, c. 71, s. 245.

246. If in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders or members in general meeting may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidator, if any, or by any contributory, and shall be deemed to have been duly held if called in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. R.S.O. 1960, c. 71, s. 246.

247. The shareholders or members of the corporation may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator appointed under section 243 or 245, and in such case shall appoint another liquidator in his stead. R.S.O. 1960, c. 71, s. 247.

248. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. R.S.O. 1960, c. 71, s. 248.

249. Where a corporation is being wound up voluntarily, it shall, from the date of the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its instrument of incorporation or by-laws, continue until its affairs are wound up. R.S.O. 1960, c. 71, s. 249.

250. After the commencement of a voluntary winding up,
 (a) no action or other proceeding shall be commenced against the corporation; and

- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1960, c. 71, s. 250.

Settlement
of list of
contributor-
ies

251.—(1) Upon a voluntary winding up, the liquidator shall settle the list of contributories, and any list so settled is *prima facie* evidence of the liability of the persons named therein to be contributories.

Payment
from con-
tributories

(2) Upon a voluntary winding up, the liquidator may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he deems necessary to satisfy the liabilities of the corporation and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidator may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1960, c. 71, s. 251.

Meetings of
corporation
during
winding up

252.—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders or members of the corporation for the purpose of obtaining its sanction by resolution, or for any other purpose he thinks fit.

Where wind-
ing up
continues
more than
one year

(2) In the event of a voluntary winding up continuing for more than one year, the liquidator shall call a general meeting of the shareholders or members of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the preceding year. R.S.O. 1960, c. 71, s. 252.

Arrange-
ments with
creditors
may be
authorized

253. The liquidator, with the sanction of a resolution of the shareholders or members of the corporation passed in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidator deems expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1960, c. 71, s. 253.

254. The liquidator may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed upon, and the liquidator may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1960, c. 71, s. 254.

Power to compromise with debtors and contributories

255.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidator of the first-mentioned corporation, with the sanction of a resolution of the shareholders or members passed in general meeting of the corporation by which he was appointed conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, cash or shares or other like interest in the purchasing corporation for the purpose of distribution among the shareholders or members of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Power to accept shares, etc., as consideration for sale of property to another company

(2) A sale made or arrangement entered into by the liquidator under this section is binding on the shareholders or members of the corporation that is being wound up voluntarily if,

Confirmation of sale or arrangement

- (a) in the case of a company, the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting; or
- (b) in the case of a corporation without share capital, the members or classes of members, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the members or of each class of members represented at the meeting,

approve the sale or arrangement and if the sale or arrangement is approved by an order made by the court on the application of the corporation.

Where
resolution
not invalid

(3) No resolution shall be deemed invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1960, c. 71, s. 255.

Winding up
by court

256. A corporation may be wound up by order of the court,

- (a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. R.S.O. 1960, c. 71, s. 256.

Who may
apply

257.—(1) The winding-up order may be made upon the application of the corporation or of a shareholder or of a member or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$200 or more.

Notice

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. R.S.O. 1960, c. 71, s. 257.

Power of
court

258. The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is deemed just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up and may also delegate any powers of the court conferred by this Act to any officer of the court. R.S.O. 1960, c. 71, s. 258.

259.—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property. Appointment of liquidator

(2) The court may at any time fix the remuneration of the liquidator. Remuneration

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. Vacancy

(4) The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1960, c. 71, s. 259. Removal of liquidator

260. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. R.S.O. 1960, c. 71, s. 260. Costs and expenses

261. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1960, c. 71, s. 261. Commencement of winding up

262. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1960, c. 71, s. 262. Proceedings in winding up after order

263.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders or members of the corporation to be called, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court. Meetings of members of company may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, etc. Order for delivery by contributories and others of property, etc.

convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate or effects that are in his hands and to which the corporation is *prima facie* entitled.

Inspection
of books

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the books and papers of the corporation by its creditors and contributories, and any books and papers in the possession of the corporation may be inspected in conformity with such order. R.S.O. 1960, c. 71, s. 263.

No proceed-
ings against
corporation
after court
winding up
except by
leave

264. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1960, c. 71, s. 264.

Application
of ss. 266-
278, 281

265. Sections 266 to 278 and 281 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1960, c. 71, s. 265.

Where no
liquidator

266.—(1) If from any cause there is no liquidator, the court may by order on the application of a shareholder or member of the corporation appoint one or more persons as liquidator.

Idem

(2) Where there is no liquidator, the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1960, c. 71, s. 266.

Conse-
quences of
winding up

267.—(1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its liabilities *pari passu* and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, the wages of all clerks, labourers, servants, apprentices and other wage earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not

exceeding three months wages and for vacation pay accrued for not more than twelve months under *The Hours of Work and Vacations with Pay Act* and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;

R.S.O. 1960
c. 181

- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 52 of *The Trustee Act* applies *mutatis mutandis* to liquidators. R.S.O. 1960, c. 71, s. 267.

Distribution
of property
R.S.O. 1960,
c. 408

268. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1960, c. 71, s. 268.

Payment of
costs and
expenses

269.—(1) The liquidator may,

Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as is necessary for the beneficial winding up of the corporation;
- (c) sell *en bloc* or in parcels the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration to the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation;

- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in due course

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of the corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. R.S.O. 1960, c. 71, s. 269.

Nature of liability of contributory

270. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1960, c. 71, s. 270.

Who liable in case of his death

271. If a contributory dies before or after he has been placed on the list of contributories, his legal representatives are liable in due course of administration to contribute to the property of the corporation in discharge of the liability of such deceased contributory and shall be contributories accordingly. R.S.O. 1960, c. 71, s. 271.

Deposit in bank by liquidator

272.—(1) The liquidator shall deposit in a chartered bank in Ontario all sums of money that he has belonging to the corporation if such sums amount to \$100 or more.

Approval of bank by inspectors

(2) If inspectors have been appointed, the bank shall be one approved by them.

Separate deposit account to be kept; withdrawal from account

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidator and one of the inspectors, if any.

Liquidators to produce bank pass-book

(4) At every meeting of the shareholders or members of the corporation the liquidator shall produce a pass-book or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production

shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder or member of the corporation. R.S.O. 1960, c. 71, s. 272.

273. For the purpose of proving claims, sections 25, 26 and 27 of *The Assignments and Preferences Act* apply *mutatis mutandis*, except that, where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. R.S.O. 1960, c. 71, s. 273.

274. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as it prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1960, c. 71, s. 274.

275.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director or officer of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court deems capable of giving information concerning its trade, dealings, estate or effects.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director or officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, money of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and order him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court deems just, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the court deems just. R.S.O. 1960, c. 71, s. 275.

Proceedings
by share-
holders

276.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, if any, refuses or neglects to take such proceeding after being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

Benefits,
when for
shareholders

(2) Thereupon any benefit derived from such proceeding belongs exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who has joined him in causing the institution of the proceeding.

when for
corporation

(3) If before such order is granted the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1960, c. 71, s. 276.

Rights con-
ferred by
Act to be
in addition
to other
powers

277. The rights conferred by this Act are in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. R.S.O. 1960, c. 71, s. 277.

Stay of
winding-up
proceedings

278. At any time during a winding up, the court, upon the application of a shareholder or member or creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court deems fit. R.S.O. 1960, c. 71, s. 278.

Account of
voluntary
winding up
to be made
by liquidator
to a general
meeting

279.—(1) Where the affairs of the corporation have been fully wound up voluntarily, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Provincial Secretary stating that the meeting was held and the date thereof. Notice of holding of meeting

(3) On the expiration of three months from the date of the filing of the notice, the corporation is *ipso facto* dissolved. Dissolution

(4) At any time during the three-month period mentioned in subsection 3, the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is *ipso facto* dissolved on the date so fixed. Extension

(5) The person on whose application the order was made shall within ten days after it was made file with the Provincial Secretary a copy of it certified under the seal of the court. Copy of extension order to be filed

(6) A person who fails to comply with any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 279. Offence

280.—(1) Notwithstanding section 279, in the case of a voluntary winding up or in the case of a winding up by order of the court, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved at and from the date of the order. Order for dissolution

(2) The person on whose application the order was made shall within ten days after it was made file with the Provincial Secretary a copy of it certified under the seal of the court. Copy of dissolution order to be filed

(3) A person who fails to comply with any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 280. Offence

281.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders or members because a shareholder or member is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder or member may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder or member, and thereupon subsections 5 and 6 of section 327 apply thereto. Where shareholder unknown

Idem

(2) A delivery or conveyance under subsection 1 shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *a* of subsection 1 of section 267.

Where
creditor
unknown

(3) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections 5 and 6 of section 327 apply thereto.

Idem

(4) A payment under subsection 3 shall be deemed to be in satisfaction of the debt for the purposes of clause *a* of subsection 1 of section 267. R.S.O. 1960, c. 71, s. 281.

Disposal of
books, etc.,
after wind-
ing up

282.—(1) Where a corporation has been wound up under this Act and is about to be dissolved, its books, accounts and documents and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under order.

Where
responsi-
bility as to
custody of
books, etc.,
to cease

(2) After the lapse of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of such books, accounts and documents has been committed by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1960, c. 71, s. 282.

Provision
for dis-
charge of
liquidator
and distri-
bution by
the court

283.—(1) Where a corporation is being wound up under an order of the court and the realization and distribution of its property has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
books and
documents

(2) In such case, the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as it thinks fit. R.S.O. 1960, c. 71, s. 283.

284. The Lieutenant Governor in Council may make rules ^{Rules of procedure} for the due carrying out of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada) ^{R.S.C. 1952, c. 296} apply. R.S.O. 1960, c. 71, s. 284.

PART VIII

CORPORATIONS, GENERAL

285. This Part, except where it is otherwise expressly ^{Application} provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by ^{R.S.O. 1960, c. 222} that Act. R.S.O. 1960, c. 71, s. 285.

286. A corporation is, upon its incorporation, invested ^{Incorporation subject to trusts} with all the property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation. R.S.O. 1960, c. 71, s. 286.

287. A corporation, unless otherwise expressly provided ^{General corporate powers} in the Act or instrument creating it, has and shall be deemed to have had from its creation the capacity of a natural person and may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1960, c. 71, s. 287.

288. A corporation has power,

^{Incidental powers}

- (a) to construct, maintain and alter any buildings or works necessary or convenient for its objects;

- (b) to acquire by purchase, lease or otherwise and to hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer so necessary, to sell, alienate and convey the same. R.S.O. 1960, c. 71, s. 288.

Restrictions
on holding
land

289.—(1) No corporation and no trustee on its behalf shall acquire or hold any land or interest therein, not necessary for the actual use and occupation of the corporation or for carrying on its undertaking or not held by way of security, for more than seven years after its acquisition if the land was never so necessary or after it has ceased to be so necessary.

Extension
of period

(2) The Lieutenant Governor in Council may extend the period of seven years mentioned in subsection 1, but no such extension or extensions shall exceed five years in all.

Statement
as to land
held

(3) A corporation shall give to the Provincial Secretary when required a full and correct statement of all land or interest therein at the date of such statement held by or in trust for the corporation. R.S.O. 1960, c. 71, s. 289.

Head
office

290.—(1) Subject to subsection 2, a corporation shall at all times have its head office in the place in Ontario where the letters patent provide that the head office is to be situate.

Change of
head
office

(2) A corporation may by special resolution change the location of its head office to another place in Ontario. R.S.O. 1960, c. 71, s. 290 (1, 2).

Where
municipality
annexed or
amalgamated

(2a) Where the location of the head office of a corporation is changed by reason only of the annexation or amalgamation of the place in which the head office is situate to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection 2. 1964, c. 10, s. 6.

Filing and
publication

(3) Notice of the special resolution shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution.

Offence

(4) A corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 290 (3, 4).

291.—(1) Notwithstanding this or any other Act or law, no corporation that has objects in whole or in part of a social nature, other than a corporation commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of the Provincial Secretary. Social clubs, change of premises

(2) The giving of the consent mentioned in subsection 1 is in the discretion of the Provincial Secretary. R.S.O. 1960, c. 71, s. 291. Idem

292. A corporation shall have a seal which shall be adopted and may be altered or changed by by-law. R.S.O. 1960, c. 71, s. 292. Seal

293.—(1) A contract that if made between individual persons would be by law required to be in writing and under seal may be made on behalf of a corporation in writing under the seal of the corporation. Contracts in writing under seal

(2) A contract that if made between individual persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of a corporation in writing signed by any person acting under its authority, express or implied. Contracts in writing not under seal

(3) A contract that if made between individual persons would be by law valid although made by parol only and not reduced into writing may be made by parol on behalf of a corporation by any person acting under its authority, express or implied. R.S.O. 1960, c. 71, s. 293. Parol contracts

294. A corporation may, by writing under seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute on its behalf deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1960, c. 71, s. 294. Power of attorney by corporation

295. A document requiring authentication by a corporation may be signed by any director or by any authorized person and need not be under seal. R.S.O. 1960, c. 71, s. 295. Authentication of documents, etc.

296.—(1) The affairs of every corporation shall be managed by a board of directors howsoever designated. Directors

(2) The board of directors of a corporation shall consist of a fixed number of directors not fewer than three. Number

Conduct of
business

(3) Subject to subsection 1 of section 311, no business of a corporation shall be transacted by its directors except at a meeting of directors at which a quorum of the board is present.

Idem

(4) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1960, c. 71, s. 296.

First
directors

297.—(1) The persons named as first directors in the Act or instrument creating the corporation are the directors of the corporation until replaced by the same number of others duly elected or appointed in their stead.

Idem

(2) The first directors of the corporation have all the powers and duties and are subject to all the liabilities of directors.

Interpre-
tation

(3) In the case of corporations incorporated before the 30th day of April, 1954, "first directors" in this section means provisional directors. R.S.O. 1960, c. 71, s. 297.

Change in
number of
directors

298.—(1) A corporation may by special resolution increase or decrease the number of its directors.

Notice of
special
resolution

(2) Notice of the special resolution shall be filed with the Provincial Secretary and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution.

Offence

(3) A corporation that fails to comply with subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 298.

Qualifica-
tion of
directors,
number of
shareholders

299.—(1) Subject to subsections 2 and 3, no person shall be a director of a corporation unless he is a shareholder or member of the corporation, and, if he ceases to be a shareholder or member, he thereupon ceases to be a director.

Exception

(2) A person may be a director of a corporation if he becomes a shareholder or member of the corporation within ten days after his election or appointment as a director, but, if he fails to become a shareholder or member within such ten days, he thereupon ceases to be a director and shall not be re-elected or re-appointed unless he is a shareholder or member of the corporation. R.S.O. 1960, c. 71, s. 299 (1, 2).

(3) A corporation,

(a) operating a hospital within the meaning of *The Public Hospitals Act*; or

Exception,
hospitals
and stock
exchanges
R.S.O. 1960,
c. 322

(b) operating a recognized stock exchange,

may by by-law provide that a person may, with his consent in writing, be a director of the corporation notwithstanding that he is not a shareholder or member of the corporation. 1960-61, c. 13, s. 3.

(4) A director shall be twenty-one or more years of age. Age

(5) No undischarged bankrupt shall be a director, and, if a director becomes a bankrupt, he thereupon ceases to be a director. R.S.O. 1960, c. 71, s. 299 (4, 5). Bankrupts

300.—(1) The directors shall be elected by the shareholders or members in general meeting and the election shall be by ballot or in such other manner as the by-laws of the corporation prescribe. Election of directors

(2) Unless the letters patent or supplementary letters patent otherwise provide, the election of directors shall take place yearly and all the directors then in office shall retire, but, if qualified, are eligible for re-election. Idem

(3) Subsection 2 does not affect the operation of any by-law passed before the 30th day of April, 1954, which provides that the election of directors shall take place otherwise than yearly. Exception

(4) If an election of directors is not held at the proper time, the directors continue in office until their successors are elected. Continuance in office

(5) The letters patent or supplementary letters patent may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. Rotation of directors

(6) A corporation to which Part V applies may by by-law provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. R.S.O. 1960, c. 71, s. 300. Idem, co-ops

301.—(1) Unless the letters patent, supplementary letters patent or a special resolution otherwise provides, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors. Quorum of directors

- Vacancies** (2) As long as there is a quorum of directors in office, any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors then in office.
- Idem** (3) Whenever there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders or members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder or member. R.S.O. 1960, c. 71, s. 301.
- President** **302.**—(1) The directors shall elect a president from among themselves.
- Other officers** (2) The directors shall appoint a secretary and may appoint one or more vice-presidents and other officers. R.S.O. 1960, c. 71, s. 302 (1, 2).
- Corporations without share capital** (2a) Notwithstanding subsections 1 and 2, in the case of a corporation without share capital, if the letters patent, supplementary letters patent or by-laws so provide, the officers of the corporation or any of them may be elected or appointed at a general meeting of the members duly called for that purpose. 1964, c. 10, s. 7.
- Acting secretary** (3) If the office of secretary is vacant or if for any reason the secretary is unable to act, anything required or authorized to be done by the secretary may be done by an assistant secretary or, if there is no assistant secretary able to act, by any other officer of the corporation authorized generally or specifically in that behalf by the directors. R.S.O. 1960, c. 71, s. 302 (3).
- Chairman of the board** **303.** A corporation may by special resolution provide for the election by the directors from among themselves of a chairman of the board of directors and define his duties, and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the corporation, and in that case the special resolution shall fix and prescribe the duties of the president. R.S.O. 1960, c. 71, s. 303.
- Qualification of officers** **304.**—(1) Except in the case of the president and the chairman of the board of directors, no officer of the corporation need be a director or a shareholder or member of the corporation unless the by-laws so provide. R.S.O. 1960, c. 71, s. 304.
- Application of subs. 1** (2) Subsection 1 does not apply to a corporation operating a recognized stock exchange. 1960-61, c. 13, s. 4.
- Validity of acts of directors etc.** **305.** The acts of a director or of an officer are valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. R.S.O. 1960, c. 71, s. 305.

306. A corporation shall hold an annual meeting of its shareholders or members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting. R.S.O. 1960, c. 71, s. 306. Annual meetings

307. The directors may at any time call a general meeting of the shareholders or members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. R.S.O. 1960, c. 71, s. 307. General meetings

308.—(1) Shareholders of a company holding not less than one-tenth of the issued shares of the company that carry the right to vote at the meeting proposed to be held, or not less than one-tenth of the members of a corporation without share capital entitled to vote at the meeting proposed to be held, as the case may be, may request the directors to call a general meeting of the shareholders or members for any purpose connected with the affairs of the corporation that is not inconsistent with this Act. Requisition for meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form signed by one or more requisitionists. Requisition

(3) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders or members for the transaction of the business stated in the requisition. Duty of directors to call meeting

(4) If the directors do not within twenty-one days from the date of the deposit of the requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within sixty days from the date of the deposit of the requisition. Where requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders or members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of such meeting. Calling of meeting

(6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to call such meeting shall be repaid to the requisitionists by the corporation and any amount so repaid shall be retained by the corporation out of any moneys due or to become due from the corporation by way of fees or other remuneration in respect of their services Repayment of expenses

to such of the directors as were in default, unless at such meeting the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. R.S.O. 1960, c. 71, s. 308.

Circulation
of
shareholders'
resolutions,
etc.

309.—(1) On the requisition in writing of shareholders of a company holding not less than one-twentieth of the issued shares of the company that carry the right to vote at the meeting to which the requisition relates or not less than one-twentieth of the members of a corporation without share capital entitled to vote at the meeting to which the requisition relates, as the case may be, the directors shall,

- (a) give to the shareholders or members entitled to notice of the next meeting of shareholders or members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or
- (b) circulate to the shareholders or members entitled to vote at the next meeting of shareholders or members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

Notice

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder or member entitled thereto in the same manner and at the same time as that prescribed by this Act for the sending of notice of meetings of shareholders or members.

Idem

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Deposit of
requisition,
etc.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

- (a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,
 - (i) in the case of a requisition requiring notice of a resolution to be given, not less than ten days before the meeting,
 - (ii) in the case of a requisition requiring a statement to be circulated, not less than seven days before the meeting; and

- (b) there is deposited with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto.

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application. Where directors not bound to circulate statement

(6) A corporation and a director, officer, employee or person acting on its behalf, except a requisitionist, is not liable in damages or otherwise by reason only of the circulation of a notice or statement or both in compliance with this section. Where no liability

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates. Duty to deal with requisitioned matter

(8) The sum deposited under clause *b* of subsection 4 shall be repaid to the requisitionists by the corporation unless at the meeting to which the requisition relates the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. Repayment of expenses

(9) A director of a corporation who authorizes, permits or acquiesces in any contravention of any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 309. Offence

310. If for any reason it is impracticable to call a meeting of shareholders or members of the corporation in any manner in which meetings of shareholders or members may be called or to conduct the meeting in the manner prescribed by this Act, the letters patent, supplementary letters patent or by-laws, the court may, on the application of a director or a shareholder or member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with such an order shall for all purposes be deemed to be a meeting of shareholders or members of the corporation duly called, held and conducted. R.S.O. 1960, c. 71, s. 310. Court may direct method of holding meetings

First-year
by-laws and
resolutions

311.—(1) Any by-law or resolution signed during a corporation's first year of existence by all the directors is as valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose.

Idem

(2) Any resolution signed during the corporation's first year of existence by all the shareholders or members is as valid and effective as if passed at a meeting of the shareholders or members duly called, constituted and held for that purpose.

Alternative
method of
confirming
by-laws

(3) Any by-law passed at any time during a corporation's existence may, in lieu of confirmation at a general meeting, be confirmed in writing by all the shareholders or members entitled to vote at such meeting.

Evidentiary
value of
signatures

(4) Where a by-law or resolution purports to have been passed or confirmed under this section by the signatures of all the directors, shareholders or members, as the case may be, of the corporation, the signatures to such by-law or resolution are admissible in evidence as *prima facie* proof of the signatures of all the directors, shareholders or members, as the case may be, and are admissible in evidence as *prima facie* proof that the signatories to the by-law or resolution were all the directors, shareholders or members, as the case may be, at the date that the by-law or resolution purports so to have been passed or confirmed. R.S.O. 1960, c. 71, s. 311.

Minute
books

312.—(1) A corporation shall cause minutes of all proceedings at meetings of the shareholders or members and of the directors and of any executive committee to be entered in books kept for that purpose.

Evidence

(2) Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting, are admissible in evidence as *prima facie* proof of the proceedings.

Validity

(3) Where minutes in accordance with this section have been made of the proceedings of a meeting of the shareholders or members or of the directors or any executive committee, then, until the contrary is proved, the meeting shall be deemed to have been duly called, constituted and held and all proceedings had thereat to have been duly had and all appointments of directors, officers or liquidators made thereat shall be deemed to have been duly made. R.S.O. 1960, c. 71, s. 312.

Documents
and
registers

313. A corporation shall cause the following documents and registers to be kept:

1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.
2. All by-laws and special resolutions of the corporation.
3. A register of shareholders or members in which are set out the names alphabetically arranged of all persons who are shareholders or members or have been within ten years shareholders or members of the corporation and the address of every such person while a shareholder or member and, in the case of a company, in which are set out also the number and class of shares held by each shareholder and the amounts paid up and remaining unpaid on their respective shares.
4. A register of directors in which are set out the names, addresses and callings of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director. R.S.O. 1960, c. 71, s. 313.

314. The documents and registers mentioned in sections 40 and 313 are admissible in evidence as *prima facie* proof before and after dissolution of the corporation of all facts purporting to be stated therein. R.S.O. 1960, c. 71, s. 314.

315. A corporation shall cause to be kept proper books of account and accounting records with respect to all financial and other transactions of the corporation and, without derogating from the generality of the foregoing, records of,

- (a) all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place;
- (b) all sales and purchases of the corporation;
- (c) the assets and liabilities of the corporation; and
- (d) all other transactions affecting the financial position of the corporation. R.S.O. 1960, c. 71, s. 315.

316. A director, officer or employee of a corporation who makes or assists in making any entry in the minutes of proceedings mentioned in section 312, in the documents and registers mentioned in sections 40 and 313 or in the books of account or accounting records mentioned in section 315, knowing it to be untrue, is guilty of an offence and on sum-

mary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. R.S.O. 1960, c. 71, s. 316.

Records to
be kept at
head office

317.—(1) The minutes of proceedings mentioned in section 312, the documents and registers mentioned in sections 40 and 313 and the books of account and accounting records mentioned in section 315 shall, during the normal business hours of the corporation, be open to inspection by any director and shall, except as provided in section 42 and in subsections 2 and 3 of this section, be kept at the head office of the corporation.

Records of
account at
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations and assets and liabilities thereof or to such business of the corporation as was carried on or supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection 3 such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Exception

(3) Upon necessity therefor being shown and adequate assurance given that the minutes, documents, registers, books of account and accounting records mentioned in subsection 1 may be inspected by any person entitled thereto at the head office or some other place in Ontario designated by the Provincial Secretary after application to him for such inspection, he may upon such terms as he sees fit by order permit any corporation to keep such of them at such place or places, other than the head office, as he sees fit.

Offence

(4) A director, officer or employee of a corporation who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Rescission
of orders
made under
subs. 3

(5) The Provincial Secretary may by order upon such terms as he sees fit rescind any order made under subsection 3 or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. R.S.O. 1960, c. 71, s. 317.

Records to
be open for
inspection

318.—(1) The minutes of proceedings at meetings of shareholders or members mentioned in section 312 and the documents and registers mentioned in sections 40 and 313, during the normal business hours of the corporation, shall, at the place or places where they are kept, be open to inspection by the shareholders or members and creditors of the corporation or their agents or legal representatives, and any of them may make extracts therefrom.

(2) Every person who refuses to permit a person entitled thereto to inspect such minutes, documents or registers, or to make extracts therefrom, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 318.

319.—(1) No shareholder or member or creditor or the agent or legal representative of any of them shall make or cause to be made a list of all or any of the shareholders or members of the corporation, unless he has filed with the corporation or its agent an affidavit of such shareholder, member or creditor in the following form, and, where the shareholder, member or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation:

Form of Affidavit

Province of Ontario	In the matter of
County of	(Insert name of corporation)

I,, of the of
in the of
make oath and say:

1. I am a shareholder (or member or creditor) of the above-named corporation.

(Where the shareholder, member or creditor is a corporation, indicate office and authority of deponent in paragraph 1.)

2. I am applying to make a list of the shareholders (or members) of the above-named corporation.

3. I require the list of shareholders (or members) only for purposes connected with the above-named corporation.

4. The list of shareholders (or members) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

(2) Every person, other than a corporation or its agent, who uses a list of all or any of the shareholders or members of the corporation for the purpose of delivering or sending to all or any of such shareholders or members advertising or other printed matter relating to shares or securities, other than the shares or securities of the corporation, or for purposes not connected with the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

(3) Purposes connected with the corporation include any effort to influence the voting of shareholders or members at any meeting of the corporation and include the acquisition or offering of shares to acquire control or to effect an amalgamation or reorganization and any other purpose approved by the Provincial Secretary.

Offence

(4) Every person who offers for sale or sells or purchases or otherwise traffics in a list or copy of a list of all or any of the shareholders or members of a corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 71, s. 319.

Power of court to correct

320.—(1) If the name of a person is, without sufficient cause, entered in or omitted from the minutes of proceedings mentioned in section 312 or from the documents or registers mentioned in sections 40 and 313, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the court for an order that the minutes, documents or registers be rectified, and the court may dismiss such application or make an order for the rectification of the minutes, documents or registers, and may direct the corporation to compensate the party aggrieved for any damage he has sustained.

Decision as to title

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to such proceeding to have his name entered in or omitted from such minutes, documents or registers, whether such question arises between two or more shareholders or members or alleged shareholders or members, or between any shareholder or member or alleged shareholder or member and the corporation.

Trial of issue

(3) The court may direct an issue to be tried.

Appeal

(4) An appeal lies from the decision of the court as if it had been given in an action.

Jurisdiction of courts not affected

(5) This section does not deprive any court of any jurisdiction it otherwise has.

Costs

(6) The costs of any proceeding under this section are in the discretion of the court. R.S.O. 1960, c. 71, s. 320.

Investigations and audits

321.—(1) Upon an application by the shareholders of a company holding shares representing not less than one-tenth of the issued capital of the company, or upon an application of at least one-tenth of the members of a corporation without share capital, the court may appoint an inspector to investigate the affairs and management of the corporation or may appoint a person to audit its books.

(2) The application shall be supported by such evidence as the court requires for the purpose of showing that the applicants have good reason for requiring the investigation or audit, as the case may be. Evidence

(3) The court may require the applicants to give security to cover the probable cost of the investigation or audit and may make rules and prescribe the manner in which and the extent to which the investigation or audit is to be conducted. Security for costs

(4) Such inspector or auditor shall report thereon to the court and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants or partly by the corporation and partly by the applicants. Report on and expense of investigation or audit

(5) A corporation may, by resolution passed at an annual meeting or at a general meeting called for that purpose, appoint an inspector to investigate its affairs and management. Corporation may appoint inspector for same purpose

(6) The inspector appointed under subsection 5 has the same powers and shall perform the same duties as an inspector appointed under subsection 1 and he shall make his report in such manner and to such persons as the corporation by resolution directs. Powers and duties of inspector

(7) All officers and agents of the corporation shall produce for the examination of any inspector or auditor appointed under this section all books and records in their custody or power. Production of books and documents

(8) Any such inspector or auditor may examine upon oath the officers, agents and employees of the corporation in relation to its affairs and management. Examination on oath

(9) Every officer or agent who refuses to produce any book or record referred to in subsection 7 and every person so examined who refuses to answer any question relating to the affairs and management of the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Offence

(10) A copy of the report of the inspector or auditor, as the case may be, authenticated by the court or under the seal of the corporation whose affairs and management he has investigated, is admissible in any legal proceedings as evidence of the opinion of the inspector or auditor in relation to any matter contained in the report. R.S.O. 1960, c. 71, s. 321. Report admissible in proceedings

Corporation
with fewer
than three
shareholders
or members
exercising
corporate
powers

322.—(1) If a corporation exercises its corporate powers when its shareholders or members are fewer than three for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the corporation contracted during such time and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Shareholder
or member
may relieve
himself from
liability

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation
of charter

(3) If after notice from the Provincial Secretary the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may be regarded by the Lieutenant Governor as sufficient cause for the making of an order under subsection 1 of section 326. R.S.O. 1960, c. 71, s. 322.

Bringing
corporations
under this
Act

323.—(1) A corporation incorporated otherwise than by letters patent and being at the time of its application a subsisting corporation may apply for letters patent under this Act, and the Lieutenant Governor may issue letters patent continuing it as if it had been incorporated under this Act.

Change of
powers,
etc.

(2) Where a corporation applies for the issue of letters patent under subsection 1, the Lieutenant Governor may, by the letters patent, limit or extend the powers of the corporation, name its directors and change its corporate name, as the applicant desires.

Transfer
of foreign
corporations

(3) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Lieutenant Governor to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Lieutenant Governor for letters patent continuing it as if it had been incorporated under this Act, and the Lieutenant Governor may issue such letters patent on application supported by such material as appears satisfactory and such letters patent may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the

Lieutenant Governor to be fit and proper. R.S.O. 1960, c. 71, s. 323.

323a.—(1) A corporation incorporated under the laws of Ontario may, if authorized by a special resolution, by the Provincial Secretary and by the laws of any other jurisdiction in Canada, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction. Transfer of
Ontario
corporations

(2) The corporation shall file with the Provincial Secretary a notice of the issue of the instrument of continuation and on and after the date of the filing of such instrument this Act ceases to apply to that corporation. Notice

(3) This section applies only to a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1961-62, c. 21, s. 4. Application

[NOTE.—*Section 323a comes into force on a day to be named by the Lieutenant Governor by his proclamation. See 1961-62, c. 21, s. 5 (2).*]

324. All rights of creditors against the property, rights and assets of a corporation amalgamated under section 96 or continued under section 323, and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. R.S.O. 1960, c. 71, s. 324. Rights of
creditors
preserved

325.—(1) If a corporation heretofore or hereafter incorporated by letters patent did not go or does not go into actual *bona fide* operation within two years after incorporation or for any two consecutive years did not or does not use its corporate powers, the Lieutenant Governor, after having given the corporation such notice as he deems proper, may by order declare such powers forfeited, except so far as is necessary for the winding up of the corporation. Forfeiture
for non-user

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of
creditors not
affected

(3) Where the powers of a corporation have been forfeited under subsection 1 or a predecessor of subsection 1, the Lieutenant Governor on the application of the corporation may by order, on such terms and conditions as he sees fit to impose, revive the corporate powers. R.S.O. 1960, c. 71, s. 325. Revival

Social clubs,
cause for
cancellation

325a. Notwithstanding anything to the contrary in any Act, in any letters patent or in any supplementary letters patent, if it is made to appear to the satisfaction of the Provincial Secretary that a corporation that has objects in whole or in part of a social nature,

1953-54,
c. 51 (Can.)

- (a) occupies and uses a house, room or place as a club that, except for paragraph *a* of subsection 2 of section 168 of the *Criminal Code* (Canada), would be a common gaming house within the meaning of paragraph *d* of subsection 1 of the said section 168; or
- (b) occupies premises that are equipped, guarded, constructed or operated so as to hinder or prevent lawful access to and inspection by police or fire officers, or are found fitted or provided with any means or contrivance for playing any game of chance or any mixed game of chance and skill, gaming or betting or with any device for concealing, removing or destroying such means or contrivance,

the Lieutenant Governor may make an order under subsection 1 of section 326. 1962-63, c. 24, s. 10.

Termination
of existence
for cause

326.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit,

- (a) cancel the letters patent of a corporation and declare it to be dissolved on such date as the order fixes;
- (b) declare the corporate existence of a corporation incorporated otherwise than by letters patent to be terminated and the corporation to be dissolved on such date as the order fixes; or
- (c) cancel any supplementary letters patent issued to a corporation. R.S.O. 1960, c. 71, s. 326 (1).

Inquiry

(1a) The Provincial Secretary, under such circumstances and at any time as he in his discretion thinks advisable, may authorize any officer of the Department of the Provincial Secretary to conduct an inquiry for the purpose of determining whether or not there is sufficient cause for the making of an order under subsection 1.

Powers of
inquiring
officer

(1b) Every officer so authorized has the power to summon any person to appear before him as a witness in such inquiry and to require such person to give evidence on oath, touching

any matter relevant to the purpose of the inquiry, and to produce such documents and things as such officer deems requisite for that purpose.

(1c) Every such officer has the same power to enforce the attendance of witnesses and to compel them to give evidence and to produce documents and things as is vested in any court in civil cases. Witnesses

(1d) Section 9 of *The Evidence Act* applies to any witness and to the evidence given by him before any such officer in any such inquiry. Witness may be required to answer
R.S.O. 1960, c. 125

(1e) An appeal lies from an order made under subsection 1 to the Court of Appeal upon a question of law only. Appeal

(1f) The rules and practice applicable to an appeal from a judge of the Supreme Court to the Court of Appeal are applicable, as nearly as may be, to an appeal under subsection 1e. Rules on appeal

(1g) The Provincial Secretary is entitled to be heard, by counsel or otherwise, upon the argument of any such appeal. Provincial Secretary to be heard

(1h) No costs are payable by or to any person by reason of or in respect of any such appeal. 1962-63, c. 24, s. 11. No costs

(2) Where it appears that a corporation is in default for a period of one year in filing its annual returns under *The Corporations Information Act* or a predecessor thereof and that notice of such default has been sent by registered mail to each director of record in the office of the Provincial Secretary to his last address shown on the records of that office and has been published once in *The Ontario Gazette*, the Lieutenant Governor may by order, Termination of existence on default in filing returns
R.S.O. 1960, c. 72

(a) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order fixes; or

(b) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order fixes. R.S.O. 1960, c. 71, s. 326 (2); 1964, c. 10, s. 8 (1).

(3) Where a corporation has been or is dissolved under subsection 2, the Lieutenant Governor, on the application of any interested person made within one year after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and Revival

thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. R.S.O. 1960, c. 71, s. 326 (3); 1964, c. 10, s. 8 (2).

Continuation
of existence
for limited
period for
particular
purpose

326a. Notwithstanding its dissolution under section 326, a corporation continues in existence,

- (a) for a period of three years after the date of its dissolution for the purpose only of prosecution or defending any action, suit or other proceeding commenced by or against it prior to its dissolution; and
- (b) until such time, beyond the three-year period mentioned in clause *a*, if necessary, as any decree, order or judgment of a court of competent jurisdiction in any such action, suit or other proceeding is fully executed. 1962-63, c. 24, s. 12.

Surrender
of charter

327.—(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant Governor,

- (a) that the surrender of its charter has been authorized,
 - (i) by a majority of the votes cast at a meeting of its shareholders or members duly called for that purpose or by such other vote as the letters patent or supplementary letters patent of the corporation provide, or
 - (ii) by the consent in writing of all the shareholders or members entitled to vote at such meeting;
- (b) that it has parted with its property by distributing it rateably among its shareholders or members according to their rights and interests in the corporation;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for or protected or its creditors or other persons having interests in its debts, obligations or liabilities consent;
- (d) that there are no proceedings pending in any court against it; and

- (e) that it has given notice of its intention to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where it has its head office.

(2) The Lieutenant Governor, upon due compliance with this section, may by order accept the surrender of the charter and declare the corporation to be dissolved on such date as the order fixes.

Acceptance
of surrender
and dissolution
of
corporation

(3) When a corporation surrenders its charter and a shareholder or member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *b* of subsection 1.

Where share-
holder
unknown

(4) When a corporation surrenders its charter and a creditor is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due protection of the debt for the purposes of clause *c* of subsection 1.

Where
creditor
unknown

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection 3 is in a form other than money, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into money.

Power to
convert

(6) If the share of the property delivered or conveyed under subsection 3 or its equivalent in money, or the amount paid under subsection 4, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him.

Payment to
person
entitled

(7) Where an order has been made before the 30th day of April, 1954, accepting the surrender of the charter of a corporation and the Public Trustee is holding property of the corporation in trust for its shareholders, members or creditors,

Property
now held by
Public
Trustee

subsections 5 and 6 apply to the property so held, except that the ten-year period mentioned in subsection 6 commences on the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 327.

Termination
of existence
of corpora-
tion not
incorporated
by letters
patent

328. The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant Governor upon application therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. R.S.O. 1960, c. 71, s. 328.

Liability
of share-
holders to
creditors

329.—(1) Notwithstanding the dissolution of a corporation, the shareholders or members among whom its property has been distributed remain liable to its creditors to the amount received by them respectively upon such distribution, and an action may be brought within one year from the date of such dissolution in a court of competent jurisdiction to enforce such liability.

Action
against
one share-
holder as
representing
class

(2) Where there are numerous shareholders or members, such court may permit an action to be brought against one or more shareholders or members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders or members as are found and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. R.S.O. 1960, c. 71, s. 329.

Forfeiture
of undis-
posed
property

330. Any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. R.S.O. 1960, c. 71, s. 330.

Evidence of
by-laws

331. A copy of any by-law of a corporation under its seal and purporting to be signed by an officer of the corporation, or a certificate similarly authenticated to the effect that a person is a shareholder or member of the corporation and that dues or other sums payable are due and have not been paid, or that a call or assessment that has been made is due and has not been paid, shall be received in all courts as *prima facie* proof of the by-law or of the statements contained in such certificate. R.S.O. 1960, c. 71, s. 331.

Service of
notice

332.—(1) Subject to the letters patent, supplementary letters patent or by-laws, a notice or demand to be served or made by a corporation upon a shareholder or member may be served or made personally or sent by registered letter addressed to the shareholder or member at his last address as shown on the books of the corporation.

(2) Subject to the letters patent, supplementary letters patent or by-laws, a notice or other document served by mail by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of mail. R.S.O. 1960, c. 71, s. 332.

333. Proof of any matter that is necessary to be made under this Act may be made by certificate. R.S.O. 1960, c. 71, s. 333.

334. A corporation that insures property with or insures the property of other persons, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. R.S.O. 1960, c. 71, s. 334.

335. The Lieutenant Governor in Council may make regulations,

(a) prescribing a tariff of fees to be paid on applications, returns, filings, searches, copies of documents and any other transaction under this Act, and such fees may vary in amount, having regard to the nature of the corporation, the authorized capital or otherwise, as is deemed expedient;

(b) respecting any matter that he deems requisite for carrying out the objects of this Act, and, without limiting the generality of the foregoing, respecting names of corporations or classes thereof, objects of corporations, authorized capital of companies, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares of companies, or any other matter pertaining to letters patent, supplementary letters patent or orders or the applications therefor. R.S.O. 1960, c. 71, s. 335.

336. No letters patent and no supplementary letters patent shall be issued and no order shall be made and no document shall be accepted for filing under this Act until all fees therefor have been paid. R.S.O. 1960, c. 71, s. 336.

337.—(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be moved into the Supreme Court.

Transmis-
sion of
proceedings

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

Removal of
proceedings

(3) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference
to Master

(4) Where an application is made to or is removed into the Supreme Court, the court may refer any question to the Master or other officer for inquiry and report. R.S.O. 1960, c. 71, s. 337.

Appeal

338. An appeal lies to the Court of Appeal from any order made by a court under this Act. R.S.O. 1960, c. 71, s. 338.

Untrue
state-
ments

339.—(1) Every person who makes or assists in making a statement in any return, certificate, financial statement or other document required by or for the purposes of this Act or the regulations made under this Act, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1960, c. 71, s. 339; 1962-63, c. 24, s. 13 (1).

Limitation
of action

(2) No prosecution under subsection 1 shall be commenced more than one year after the facts upon which the prosecution is based first came to the personal knowledge of the Provincial Secretary or Deputy Provincial Secretary. 1962-63, c. 24, s. 13 (2).

General
penalty

340. Every corporation that, and every person who, being a director or officer of the corporation, or acting on its behalf, commits any act contrary to any provision of this Act, or fails or neglects to comply with any such provision, is guilty of an offence and on summary conviction, if no penalty for such act, failure or neglect is expressly provided by this Act, is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 340.

Aggrieved
shareholders

341. Where a shareholder or member or creditor of a corporation is aggrieved by the failure of the corporation or a director, officer or employee of the corporation to perform any duty imposed upon it or him by this Act, the shareholder, member or creditor, notwithstanding the imposition of any penalty and in addition to any other rights that he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be,

to perform such duty, and upon such application the court may make such order or such other order as the court thinks fit. R.S.O. 1960, c. 71, s. 341.

342. The Lieutenant Governor in Council may relieve ^{Relief from compliance with Act} a corporation incorporated before the 30th day of April, 1954, from compliance with any provision of this Act. R.S.O. 1960, c. 71, s. 342.

PART IX

EXTRA-PROVINCIAL CORPORATIONS

343. In this Part,

Interpre-
tation

- (a) "extra-provincial corporation" means a corporation incorporated otherwise than by or under the authority of an Act of the Legislature;
- (b) "regulations" means the regulations made under this Part. R.S.O. 1960, c. 71, s. 343.

344. Extra-provincial corporations shall be divided into ^{Classes of extra-provincial corporations} the following classes:

Class 1. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by charter of the Government of that Province.

Class 2. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations that had before the 1st day of July, 1900, received from the Government of Ontario a licence to carry on business in Ontario, or that have been authorized by an Act of the Legislature to carry on business in Ontario while such licence or Act is in force.

Class 4. Corporations licensed or registered under *The Insurance Act*, *The Investment Contracts Act* or *The Loan and Trust Corporations Act*. ^{R.S.O. 1960, c. 190, 194, 222}

Class 5. Corporations not having gain for any of their objects.

Class 6. Corporations incorporated by or under the authority of an Act of the Parliament of Canada and authorized to carry on business in Ontario.

Class 7. Corporations exempted from this Part by the Lieutenant Governor in Council.

R.S.O. 1960,
c. 73

Class 8. Corporations within the meaning of sections 7 to 11 of *The Corporations Tax Act*.

R.S.O. 1960,
c. 217

Class 9. Corporations engaged in the brewery, distillery or wine industry that are licensed under *The Liquor Control Act*.

Class 10. Corporations, other than those mentioned in classes 1 to 9, incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 11. Corporations not within classes 1 to 10. R.S.O. 1960, c. 71, s. 344.

Reciprocal
legislation as
to exemp-
tion from
licensing

345.—(1) Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated under the law of Ontario from any Act corresponding with this Part, the Lieutenant Governor in Council may exempt corporations incorporated under the law of such other province from this Part.

General
exempting
power

(2) Notwithstanding subsection 1, the Lieutenant Governor in Council may exempt any class or classes of extra-provincial corporations from this Part. R.S.O. 1960, c. 71, s. 345.

Carrying on
business
without
licence
prohibited

346.—(1) No extra-provincial corporation within class 10 or 11 mentioned in section 344 shall carry on in Ontario any of its business unless a licence under this Part or a predecessor of this Part so to do has been issued to it and unless such licence is in force, and no person, as the representative or agent of or acting in any other capacity for any such extra-provincial corporation, shall carry on any of its business in Ontario unless it has received such licence and unless such licence is in force.

Exception

(2) If an extra-provincial corporation has no resident agent or representative or no office or place of business in Ontario, the taking of orders for or the buying or selling of goods, wares and merchandise by travellers or by correspondence shall not be deemed a carrying on of business within the meaning of this Part. R.S.O. 1960, c. 71, s. 346.

Application
for licence

347.—(1) An extra-provincial corporation within class 10 or 11 mentioned in section 344 may apply to the Lieutenant Governor for a licence to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario.

(2) Upon the application for a licence, the applicant shall establish to the satisfaction of the Provincial Secretary, or such officer as is charged by him to report thereon, that this Part and the regulations have been complied with, and the Provincial Secretary or such officer may, for that or for any other purpose under this Part, take evidence under oath. R.S.O. 1960, c. 71, s. 347.

Proof to be
furnished on
application

348. No limitations or conditions shall be included in any such licence that would limit the rights of an extra-provincial corporation within class 10 mentioned in section 344 to carry on in Ontario such part of its business and to exercise in Ontario such part of its powers as by its Act or instrument of incorporation it is authorized to carry on and exercise therein. R.S.O. 1960, c. 71, s. 348.

Conditions
of licence

349. Where an extra-provincial corporation within class 10 mentioned in section 344 complies with this Part and the regulations, the Lieutenant Governor shall issue a licence to it to carry on its business and to exercise its powers in Ontario. R.S.O. 1960, c. 71, s. 349.

Right to
licence when
within
class 10

350.—(1) Where an extra-provincial corporation within class 11 mentioned in section 344 complies with this Part and the regulations, the Lieutenant Governor may in his discretion issue a licence to it to carry on the whole or such part of its business and to exercise the whole or such part of its powers in Ontario as is embraced in the licence, subject, however, to such limitations and conditions as are specified therein.

Right to
licence when
within
class 11

(2) A licence shall not be issued to an extra-provincial corporation within class 11 mentioned in section 344 if its name is objectionable. R.S.O. 1960, c. 71, s. 350.

Name

351. The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor under this Part. R.S.O. 1960, c. 71, s. 351.

Powers of
Provincial
Secretary

352. The Provincial Secretary shall cause notice of the issue of a licence under this Part to be given in *The Ontario Gazette*, and a copy of the *Gazette* containing the notice is admissible in evidence as *prima facie* proof in all proceedings by and against the corporation and otherwise under this Part or otherwise of the issue of the licence and of the terms thereof mentioned in the notice, and a copy of the licence certified by the Provincial Secretary or his deputy is sufficient evidence of the licence before all courts and tribunals. R.S.O. 1960, c. 71, s. 352.

Notice

Power to
hold land

353. Every extra-provincial corporation having a licence under this Part or a predecessor of this Part, and every extra-provincial corporation exempted under subsection 1 of section 345 from this Part, has power, subject to its Act or instrument of incorporation, to acquire by purchase, lease or otherwise, to hold, to mortgage, to sell, to alienate and to convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking. R.S.O. 1960, c. 71, s. 353.

Cancellation
of licence

354.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit, cancel any licence issued under this Part or a predecessor of this Part.

Publication
of notice

(2) The Provincial Secretary shall cause notice of the cancellation of a licence under this section to be given in *The Ontario Gazette*. R.S.O. 1960, c. 71, s. 354.

Offence

355. Any extra-provincial corporation within class 10 or 11 mentioned in section 344 or its representative or agent that carries on in Ontario any part of its business contrary to section 346 is guilty of an offence and on summary conviction is liable to a fine of \$50 for every day upon which it or he so carries on business. R.S.O. 1960, c. 71, s. 355.

Prohibition
of actions

356.—(1) So long as an extra-provincial corporation within class 11 mentioned in section 344 is unlicensed, it is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in whole or in part in Ontario in the course of or in connection with business carried on contrary to section 346.

Idem

(2) Upon the issue or restoration of a licence, or the removal of any suspension thereof, such action or other proceeding may be maintained as if the licence had been granted or restored or the suspension had been removed before the institution thereof. R.S.O. 1960, c. 71, s. 356.

Fees on
licences

357. There shall be paid for a licence under this Part such fee as is prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 71, s. 357.

Regulations

358. The Lieutenant Governor in Council may make regulations,

- (a) respecting the evidence required upon an application for a licence under this Part as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;

- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the forms of licences, powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Part;
- (e) prescribing fees for licences under this Part. R.S.O. 1960, c. 71, s. 358.

359.—(1) The Provincial Secretary shall, after the close^{Annual report} of each fiscal year, prepare an annual report showing the licences issued under this Part during such year, the authorized capital of each corporation licensed and the fee paid for each licence.

(2) The Provincial Secretary shall submit the report to^{Tabling of report} the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 71, s. 359.

SCHEDULE

CONVERSION OF JOINT STOCK LIFE COMPANIES
INTO MUTUAL COMPANIES

Details of
plan to be
set forth
in by-law
R.S.O. 1960,
c. 71

1. The terms and provisions of any plan referred to in section 224*a* of *The Corporations Act* shall be set forth in detail in a by-law made by the directors and confirmed at a special general meeting of the company duly called for the purpose of considering the by-law, and there shall be recorded in the minutes of the meeting the number of votes for and the number of votes against confirmation of the by-law, the votes of shareholders and the votes of policyholders being recorded separately.

Sanction of
by-law by
Lieutenant
Governor in
Council

2. No such by-law becomes effective until sanctioned by the Lieutenant Governor in Council, and in no case shall any such by-law be sanctioned unless the Lieutenant Governor in Council is satisfied that,

- (a) the conversion of the company into a mutual company may reasonably be expected to be achieved under the terms of the by-law and in accordance with this paragraph;
- (b) the paid-up capital of the company has ceased to be an important factor in safeguarding the interests of the policyholders of the company, having regard to the quality and amount of the assets of the company, the surplus of the company relative to its liabilities, the nature of the business carried on by the company and any other considerations deemed by the Lieutenant Governor in Council to be relevant;
- (c) the majority of the votes cast by shareholders and the majority of the votes cast by policyholders at the special general meeting referred to in paragraph 1, whether in person or by proxy, were in favour of confirmation of the by-law;
- (d) the company holds offers from shareholders, in such terms as to preclude the withdrawal thereof prior to notice by the company in accordance with paragraph 13, to sell to the company, at a price fixed by the directors, not less than 25 per cent of all issued and outstanding shares of the capital stock of the company immediately upon the sanction of the by-law by the Lieutenant Governor in Council, or not less than 50 per cent of all issued and outstanding shares of the capital stock of the company within such period, commencing immediately upon the sanction of the by-law by the Lieutenant Governor in Council, as is specified in the by-law;
- (e) the amount required to purchase 25 per cent of the issued and outstanding shares of the capital stock of the company at the price fixed by the directors for the purposes of clause *d* does not exceed the maximum amount, determined in accordance with paragraph 9, that may be applied by the company, immediately upon the sanction of the by-law by the Lieutenant Governor in Council, in payment for shares purchased under the terms of the by-law; and
- (f) the price fixed by the directors for the purposes of clause *d* is fair and reasonable in the circumstances.

Prices to
be paid for
shares
purchased
under
by-law

3. Upon the sanction of the by-law by the Lieutenant Governor in Council, the price fixed for the purposes of clause *d* of paragraph 2 shall continue to be the price that may be paid for shares purchased under the terms of the by-law until such price is changed by the directors in accordance with paragraph 4.

Change in
price, when
effective

4. The directors may from time to time change the price to be paid for shares purchased under the terms of the by-law, but no such change becomes effective until approved by the Minister on the report of the Superintendent.

5. The price fixed for the purposes of clause *d* of paragraph 2 and any subsequent change in price approved in accordance with paragraph 4 shall remain in effect for a period of not less than six months from the date of sanction of the by-law or the date of approval by the Minister, as the case may be.

Period for which price to remain in effect

6. All shares purchased under the terms of the by-law shall be paid for by the company in full at the time of the purchase thereof, but nothing in this paragraph shall be construed as prohibiting the company from applying, in payment for any shares so purchased, the full amount of the purchase price thereof by promissory note, payable at a fixed or determinable future time not later than ten years from the date of the making thereof and bearing a rate of interest fixed by the directors and approved by the Minister on the report of the Superintendent.

Payment

7. The by-law shall fix a day for the commencement of purchase of shares under the terms of the by-law, which day shall be not sooner than the day following the day the by-law is sanctioned by the Lieutenant Governor in Council.

Date for commencement of purchase of shares

8. Subject to paragraph 9, the company shall purchase all shares offered for sale under the terms of the by-law on the day or days fixed by the terms of the offer in each case for the sale of those shares and at the price in effect on the day the offer was received or the day fixed by the by-law for the purposes of paragraph 7, whichever is the later, except that no such purchase shall be made prior to the day so fixed by the by-law.

Purchase of shares offered for sale

9. Notwithstanding anything in this Schedule, the maximum amount that may be applied by the company at any particular time in payment for shares purchased under the terms of the by-law is the amount by which,

Limitation

- (a) the aggregate of the surplus and general or contingency reserves of the company, after deducting the excess of the book value over the par value of any shares purchased under the terms of the by-law on or before the date as of which the condition and affairs of the company are required to be shown in the most recent annual statement as required by *The Corporations Act*,

R.S.O. 1960,
c. 71

exceeds the aggregate of,

- (b) 6 per cent of the total assets of the company, or such lesser percentage of the total assets of the company as may be approved by the Lieutenant Governor in Council, upon application by the company, as safe and reasonable in the circumstances having regard to the bases and methods used in the computation of the policy reserves of the company, the quality of its assets, the nature of the business transacted by the company, the earnings of the company and any other matters deemed by the Lieutenant Governor in Council to be relevant thereto; and
- (c) the total amount applied by the company before that particular time in payment for any shares purchased under the terms of the by-law after the date referred to in clause *a*.

10. For the purposes of paragraph 9, the assets, surplus and general or contingency reserves of the company and the book value of any shares purchased under the terms of the by-law shall be taken as shown in the annual statement referred to in clause *a* of paragraph 9.

Idem

11. Where, by reason of paragraph 9, the company may, at any particular time, purchase some but not all of the shares in respect of which offers for sale at that time have been received, the amount that may be applied by the company at that time in payment for shares purchased under the terms of the by-law shall be applied by the company by apportionment among all of the shares so offered for sale at that time, or any of them, in such manner as is specified in the by-law.

Number of shares to be purchased from each shareholder offering shares

Register to
be kept

12. The company shall cause a register to be kept in which shall be recorded the offers for sale of shares under the terms of the by-law in the order in which such offers are received by the company, showing, in respect of each such offer,

- (a) the date of receipt by the company of the offer;
- (b) the name and address of the shareholder making the offer;
- (c) the number of shares so offered by the shareholder making the offer and the day or days fixed by the terms of the offer for the sale of those shares;
- (d) the price at which each of the shares so offered may be purchased;
- (e) the date of purchase, if any, of each of the shares so offered and the number of shares purchased; and
- (f) the date of withdrawal, if any, of the offer and the number of shares affected thereby.

Notice to
shareholders
of discontin-
uation of
purchases

13. Where, by reason of paragraph 9, the company is required to discontinue the purchase of shares under the terms of the by-law, the company shall give notice of such discontinuation to each shareholder on the register whose offer for the sale of shares has not been fully taken up by the company, but any such offer as regards shares not so purchased shall continue to be effective and shall maintain its place on the register until withdrawn by the shareholder by notice in writing to the company.

Shares
purchased:
general

14. Where the company has purchased any shares of the capital stock of the company under the terms of the by-law,

- (a) the number of policyholders' directors of the company shall at all times thereafter be not less than,
 - (i) one-third of the total number of directors, or
 - (ii) that proportion of the total number of directors, as nearly as may be, that the total number of shares purchased under the terms of the by-law is of the total number of shares outstanding immediately prior to the sanction of the by-law by the Lieutenant Governor in Council,

whichever is the greater, except that nothing in this clause shall be held to require an increase in the number of policyholders' directors except as vacancies occur among the shareholders' directors;

- (b) the company shall not thereafter sell any of the shares so purchased, issue any new capital stock or make any calls on shares of the capital stock subscribed;
- (c) any dividends thereafter payable to shareholders shall be at a rate not less than the average rate paid in the three years immediately preceding the sanction of the by-law by the Lieutenant Governor in Council, unless the company establishes to the satisfaction of the Minister that a reduction therein is justified by reason of the earnings and general financial condition of the company; and
- (d) shares purchased under the terms of the by-law rank equally with other shares in the declaration of dividends to shareholders, but any dividends that may be payable in respect of shares so purchased shall be paid by transfer of the applicable amount from the shareholders' account to the insurance funds of the company.

Idem

15. In respect of each share purchased under the terms of the by-law, until the capital stock of the company has been cancelled in accordance with paragraph 20,

- (a) the company may include in its assets shown in the annual statement required by *The Corporations Act* an amount not exceeding R.S.O. 1960, the purchase price of the share, minus one-fifth of the excess of the purchase price over the par value thereof for each complete year that has elapsed since the date of purchase of the share; and
- (b) the policyholders' directors shall have additional voting rights corresponding to the voting rights that might have been exercised by the holder of the share if he had not sold it, and, unless the by-law otherwise provides, such additional voting rights shall be divided as nearly as may be equally among the policyholders' directors, and the remainder, if any, shall be exercised by such one of the policyholders' directors as is designated for the purpose by resolution of all of the directors.

16. At such time as the company first acquires 90 per cent or more of the shares of its capital stock, it shall notify the Minister and each of the remaining shareholders of the company to that effect, and, for the purposes of this paragraph, notice to any shareholder shall be deemed to have been given by the company if the company has forwarded to him by registered mail, at his address shown in the book or books in which the names of the shareholders of the company are recorded, the notice required by this paragraph.

17. The notice required by paragraph 16 to be given to each of the remaining shareholders of the company shall request each such shareholder to offer his shares for sale forthwith to the company, and shall state therein the substance of paragraph 18.

18. All shares of a shareholder remaining outstanding at the expiration of six months from the date of the notice required by paragraph 16, or at the expiration of such further period as may be required by reason of paragraph 9, shall, upon tender by the company to the shareholder of an amount equal to the price in effect,

- (a) in the case of shares in respect of which any offer for sale was received by the company prior to the date of the notice, on the day the offer was received; or
- (b) in the case of any other shares, on the date of the notice,

be deemed to have been purchased by the company, and, for the purposes of this paragraph, tender shall be deemed to have been made to a shareholder by the company if made to him in person or by registered mail forwarded to him at his address shown in the book or books referred to in paragraph 16.

19. Where tender of an amount in accordance with paragraph 18 has been made and the amount so tendered has not been accepted, the amount so tendered shall be retained by the company for payment to the person entitled thereto, and until so paid shall be shown on the books of the company as a liability.

20. Where the company has purchased or is deemed by paragraph 18 to have purchased all of the shares of the capital stock of the company and the shares have been written down in the books of the company to their par value, the capital stock of the company shall thereupon be retired and cancelled by resolution of the board of directors, and the company shall then become a mutual company without capital stock, having for its members the participating policyholders and such other policyholders, if any, as may be authorized by by-law, and the directors shall take all necessary steps to reorganize the affairs of the company accordingly.

No change
in by-law
except with
sanction of
Lieutenant
Governor
in Council

21. No change in any by-law of a company described in paragraph 1 shall be made after the sanction of the by-law by the Lieutenant Governor in Council, except by a subsequent by-law of the company made by the directors and confirmed at a special general meeting of the company duly called for that purpose, and no such subsequent by-law becomes effective until sanctioned by the Lieutenant Governor in Council.

Interpre-
tation
R.S.O. 1960,
c. 190

22. In this Schedule, "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of *The Insurance Act*, and "Superintendent" means the Superintendent of Insurance.

1962-63, c. 24, s. 14.

The Corporations Information Act

Revised Statutes of Ontario, 1960

CHAPTER 72

as amended by

1961-62, Chapter 22, and 1962-63, Chapter 25

The Corporations Information Act

R.S.O. 1960, CHAPTER 72

as amended by

1961-62, Chapter 22, and 1962-63, Chapter 25

1. In this Act,

Interpre-
tation

- (a) "corporation" means a corporation with or without share capital, whether acting as a trustee or not;
- (b) "regulations" means the regulations made under this Act;
- (c) "security" means security as defined in *The Securities Act*, except that in subsection 4 of section 3, "securities" means securities as defined in *The Corporations Act*. R.S.O. 1960, c. 363. R.S.O. 1960, c. 71, s. 1.

2.—(1) Every corporation of a class prescribed by the regulations, before the sale in Ontario of an issue of securities or a part thereof, other than an issue in respect of which a prospectus has been filed, shall file with the Provincial Secretary, together with the prescribed fee, a prospectus containing the information prescribed by the regulations and verified by a person and in the manner prescribed by the regulations. Filing of
prospectus

(2) Where a corporation fails to comply with subsection 1, every director and officer of the corporation and, where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or both. R.S.O. 1960, c. 72, s. 2. Offence

3.—(1) On or before the 1st day of June in each year, without notice or demand to that effect, every corporation incorporated under the law of Ontario and every other corporation having its head or other office or carrying on business or a part thereof in Ontario, unless licensed or registered under *The Insurance Act* or *The Loan and Trust Corporations Act*, or unless of a class exempted by the regulations, shall make out, verify and file with the Provincial Secretary, together with the prescribed fee, a return stating, as of the 31st day of March next preceding, Annual
returns

- (a) its name:

- (b) the jurisdiction under which it was incorporated;
- (c)
 - (i) the manner of its incorporation, whether by special Act, letters patent, registration or otherwise,
 - (ii) the date of its incorporation;
- (d) whether or not it is carrying on business;
- (e) generally the business that it is actually carrying on;
- (f)
 - (i) the number of directors authorized,
 - (ii) the names and residence addresses, giving street and number, if any, of the persons who are directors, the date on which each became a director,
 - (iii) the names and residence addresses, giving street and number, if any, of the persons who have been since the date of the last annual return but who are no longer directors, the dates on which each became a director and ceased to be a director;
- (g) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and manager;
- (h) the location of its head office, giving street and number, if any;
- (i) the date on which its last annual meeting was held;
- (j) the total amount of its bond or debenture debt authorized, the amount outstanding and the rate of interest,

corporations with share capital and, in the case of a corporation with share capital, in addition,

- (k)
 - (i) the particulars of its authorized share capital stating the number and class of shares, with or without par value, or both, and the par value, if any,
 - (ii) the date of its by-law, if any, authorizing the issue of shares as preference shares and stating the number of shares so authorized;

- (l) the number of each class of shares allotted, issued and outstanding and the amount paid thereon;
- (m)
 - (i) the number and class of shares upon which the whole amount has not been called up,
 - (ii) the amount called up on each such share,
 - (iii) the total amount of calls unpaid;
- (n) the total number of each class of shares forfeited and the amount paid thereon at the date of forfeiture;
- (o) the number and class of shares, if any, issued since the date of the last annual return, the extent to which the same are paid showing severally the number and class of shares issued for cash, services, commissions or property, and the consideration for which such shares were issued;
- (p) if share warrants are authorized and issued, the number and class of shares represented thereby;
- (q) the number of preference shares redeemed or purchased for cancellation,

and, where Part IV of *The Corporations Act* applies to the corporation, in addition, mining corporations
R.S.O. 1960,
c. 71

- (r) the number of its shares issued at a discount or premium;
- (s) the rate at which the shares mentioned in clause r were issued,

and, where the corporation is an extra-provincial corporation and is licensed to carry on business in Ontario, in addition, extra-provincial
corporations

- (t) the name and office address of its attorney for service in Ontario;
- (u) the name and office address of its chief officer or manager in Ontario;
- (v) the location of its principal office in Ontario;
- (w) the estimated amount of capital used in Ontario;
- (x) in detail, the land in Ontario owned or held by it or on behalf of it.

[See also *Ontario Regulation 28/62.*]

"Carrying
on business"
R.S.O. 1960,
cc. 71, 246

(2) A corporation that holds a licence under Part IX of *The Corporations Act*, or a predecessor of that Part or under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1.

Verification

(3) The return mentioned in subsection 1 shall be verified by the certificate of the president or, in his absence, of a director of the corporation.

Private
companies,
additional
certificate

(4) Where the corporation is a private company incorporated under the law of Ontario, in addition to the information required by subsection 1, it shall append to the return mentioned therein a certificate signed by the president or, in his absence, by a director of the company that the company has not, since the date of the last annual return or, in the case of a first annual return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any of its shares or securities, and, where the number of shareholders of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who, under subclause ii of clause *f* of section 1 of *The Corporations Act*, are excluded in reckoning the number of fifty.

Posting up

(5) The corporation shall post up a duplicate of the return mentioned in subsection 1 with the certificate of verification in a conspicuous position in its head or principal office in Ontario on or before the 2nd day of July in each year, and such duplicate may be inspected by any shareholder or member or creditor of the corporation, and the corporation shall keep the same so posted until the duplicate of another return is posted up in compliance with this Act. R.S.O. 1960, c. 72, s. 3 (1-5).

Changes in
board of
directors

(5a) Every corporation to which subsection 1 applies shall file with the Provincial Secretary a notice of every change in the membership of its board of directors within fifteen days after the change has taken place, and the notice shall specify the date upon which each person became a director or ceased to be a director, as the case may be, and the residence address, giving street and number, if any, of each such person. 1961-62, c. 22, s. 1, *part*; 1962-63, c. 25, s. 1 (1).

Change in
authorized
capital

(5b) Where preference shares of a class are redeemed or purchased for cancellation or converted into another class or classes of shares or into securities by a corporation with share capital to which subsection 1 applies, the corporation shall, within thirty days of the date on which the redemption, purchase or conversion is effected, file with the Provincial Secretary a notice setting out,

- (a) the number of shares of the class redeemed or purchased for cancellation or converted;
- (b) the number and class or classes of shares or securities into which the shares were converted; and
- (c) the date on which the redemption, purchase or conversion was effected. 1961-62, c. 22, s. 1, *part*.

(5c, 5d) (1961-62, c. 22, s. 1) REPEALED: 1962-63, c. 25, s. 1 (2).

(6) A corporation that fails to comply with this section is guilty of an offence and on summary conviction is liable to a fine of \$20 for each day of such failure and every director or officer of the corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario who authorizes, permits or acquiesces in any such failure, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Offence

(7) Notwithstanding the imposition of any other penalty under this Act, every corporation that has failed to comply with a predecessor of this section and every corporation that fails to comply with this section is liable to a penalty of \$200 and every director or officer of the corporation and, where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in, or who authorizes, permits or acquiesces in, any such failure is liable to a penalty of \$200, and any such penalty is recoverable in any court of competent jurisdiction by action at the suit of the Crown to be tried by a judge without a jury. R.S.O. 1960, c. 72, s. 3 (6, 7). Civil penalty

(8) Every person who knowingly makes a statement false in any material particular in a certificate required by subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. R.S.O. 1960, c. 72, s. 3 (8); 1962-63, c. 25, s. 1 (3). Offence

(8a) No prosecution under subsection 8 shall be commenced more than one year after the facts upon which the prosecution is based first come to the personal knowledge of the Provincial Secretary or Deputy Provincial Secretary. Limitation upon prosecutions

(8b) In a prosecution under subsection 8, the onus is upon the accused to establish that he did not know that the statement was false or that he had reasonable grounds to believe that the statement was true. 1962-63, c. 25, s. 1 (4), *part*. Onus of proof

Corporations incorporated before July 1st, 1907, etc.
7 Edw. VII. c. 34

(9) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act, 1907*, except chapter 191 of the Revised Statutes of Ontario, 1897 and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital.

Summary under R.S.C. 1952, c. 53, in lieu of return

(10) A corporation required to file a summary under section 125 of the *Companies Act* (Canada) may file with the Provincial Secretary a duplicate of such summary, signed and verified as prescribed in that section, in lieu of the return required by subsection 1, and shall pay the fee prescribed for such return.

Enlargement of time and exemption of fee

(11) The Provincial Secretary may in his discretion enlarge the time for filing any such return or summary and may grant an exemption in whole or in part from the payment of the fee.

Where default deemed to continue

(12) Notwithstanding that a corporation has delivered or filed the return mentioned in this section or a predecessor of this section, the corporation shall be deemed to be in default in filing such return until the prescribed fee payable on the delivery or filing of such return has been paid.

Proof of default

(13) A certificate purporting to be under the seal of office of the Provincial Secretary and the hand of the Provincial Secretary or his deputy that the return mentioned in this section or a predecessor of this section was not delivered or filed as required by this section or a predecessor of this section is admissible in evidence as *prima facie* proof in a prosecution or action under this section that such return was not so filed, without proof of the seal of office of the Provincial Secretary or of the signature or of the official character of the person appearing to have signed the same. R.S.O. 1960, c. 72, s. 3 (9-13).

Certificate as proof

(14) A certificate purporting to be under the seal of the Provincial Secretary and under the hand of the Provincial Secretary or the Deputy Provincial Secretary that the person named in the certificate on the date or during the period specified in the certificate is shown on the records in the office of the Provincial Secretary as a director or officer of the corporation named in the certificate is admissible as *prima facie* proof in a prosecution or action under this section that such person is so shown and that such person is or was a director or officer, as the case may be, of such corporation on such date or during such period, without proof of the seal of office of the Provincial Secretary or of the signature or of the official character of the person appearing to have signed the certificate. 1962-63, c. 25, s. 1 (4), *part*.

4. The Provincial Secretary may at any time by notice require any corporation to make a return upon any subject connected with its affairs within the time specified in the notice, and on default in making such return every director of the corporation, and, where the corporation is an extra-provincial corporation every person acting as its representative in Ontario, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 72, s. 4.

5.—(1) Where a prospectus, notice or other circular invites subscriptions for the securities of a corporation, every person who is a director of the corporation at the time of the issue of the prospectus, notice or other circular, and every person who having authorized such naming of him is named in the prospectus, notice or other circular as a director of the corporation, or as having agreed to become a director of the corporation, either immediately or after an interval of time, and every promoter of the corporation and every person who has authorized the issue of the prospectus, notice or other circular is liable to pay compensation to all persons who subscribe for any securities on the faith of the prospectus, notice or other circular for the loss or damage they may have sustained by reason of any untrue statement in the prospectus, notice or other circular or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved that,

- (a) having consented to become a director of the corporation he withdrew his consent before the issue of the prospectus, notice or other circular, and that the prospectus, notice or other circular was issued without his authority or consent; or
- (b) the prospectus, notice or other circular was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) after the issue of the prospectus, notice or other circular and before allotment thereunder, he, on becoming aware of an untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of his withdrawal and of the reason therefor; or
- (d) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, he

Provincial
Secretary
may require
returns

Liability of
directors,
promoters,
etc., for
untrue
statements
on soliciting
subscriptions

had reasonable ground to believe and did, up to the time of the allotment of the securities, believe that the statement was true; or

- (e) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, but the director, person named as director, promoter or person who authorized the issue of the prospectus, notice or other circular is liable to pay compensation as aforesaid, if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; or
- (f) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document.

**Interpre-
tation**

(2) In this section, "promoter" means a promoter who was a party to the preparation of the prospectus, notice or other circular or of the part thereof containing such untrue statement, but does not include any person by reason of his acting solely in a professional capacity for persons engaged in procuring the information of the company. R.S.O. 1960, c. 72, s. 5.

Regulations

6. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the class or classes of corporations that shall file prospectuses under section 2;
- (b) prescribing the information to be contained in such prospectuses;
- (c) specifying the persons who shall verify such prospectuses and prescribing the manner of verifying such prospectuses;
- (d) prescribing the fees payable upon the filing of such prospectuses;
- (e) exempting any class or classes of corporations from filing returns under section 3;

- (f) prescribing the fees payable on the filing of returns under section 3, which fees may be made to vary in amount having regard to the nature of the corporation, the amount of the authorized capital, or otherwise;
 - (g) notwithstanding subsection 1 of section 3, specifying the information to be contained in the return mentioned therein;
 - (h) notwithstanding subsection 1 of section 3, specifying the date for the filing of the return and the date as of which the information is to be given in the return mentioned therein;
 - (i) notwithstanding subsection 3 of section 3, specifying the persons who may verify and prescribing the method of verifying the return mentioned therein;
 - (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 72, s. 6.
-

The Mortmain and Charitable Uses Act

Revised Statutes of Ontario, 1960

CHAPTER 246

The Mortmain and Charitable Uses Act

Revised Statutes of Ontario, 1960

CHAPTER 246

1.—(1) In this Act,

Interpre-
tation

(a) “assurance” includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest and every other assurance by deed, will or other instrument, and “assure” and “assuror” have a corresponding meaning;

(b) “full and valuable consideration” includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rent charge, or other annual payment, in perpetuity, or for any term of years, or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved, as aforesaid;

(c) “land” includes tenements and hereditaments corporeal and incorporeal of whatever tenure, but not money secured on land, or other personal estate arising from or connected with land;

(d) “will” includes codicil.

(2) The following shall be deemed to be charitable uses<sup>Charitable
uses</sup> within the meaning of this Act:

(a) the relief of poverty;

(b) education;

(c) the advancement of⁷religion; and

(d) any purpose beneficial to the community, not falling under the foregoing heads. R.S.O. 1960, c. 246, s. 1.

MORTMAIN

Prohibition
against
mortmain

2.—(1) Land shall not be assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force.

Forfeiture

(2) Where land is assured, acquired or held contrary to subsection 1, it shall be forfeited to the Crown upon the expiration of at least six months after notice in writing is given to the corporation of the intention of the Crown to claim the land and upon the Crown registering in the proper registry or land titles office a similar notice against the land.

Effect of
registration
of notice

(3) Upon the registration of such notice against the land, it shall be deemed to be a charge against the land.

Release or
vacation

(4) Such a charge may be released or vacated at any time upon the registration in the proper registry or land titles office of a release or cessation, as the case may be, of the charge.

Right of
disposal

(5) The corporation may dispose of the land free from and clear of any forfeiture or any liability to forfeiture under this section until the expiration of the six months period mentioned in subsection 2 and until the notice mentioned in subsection 2 is registered against the land.

Application
of subss. 2-5

(6) Subsections 2 to 5 apply to land that was before the 30th day of April, 1954, assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force, except where the Crown has entered on and held the land before that date, and to land so assured, acquired or held on or after that date. R.S.O. 1960, c. 246, s. 2.

Saving for
rents and
services

3. No forfeiture to the Crown under section 2 merges or extinguishes or otherwise affects any rent or service that may be due to the Crown in respect of any land. R.S.O. 1960, c. 246, s. 3.

Power to
issue
licences in
mortmain

4.—(1) The Lieutenant Governor may in his discretion issue to any person or corporation a licence in such form as he thinks fit to assure land in mortmain in perpetuity or otherwise, and may in his discretion issue to any corporation a licence to acquire land in mortmain, and to hold such land in perpetuity or otherwise.

(2) The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor by subsection 1. Powers of Provincial Secretary

(3) Upon the application for a licence issued under this Act, the applicant shall establish to the satisfaction of the Provincial Secretary, or such officer as may be charged by him to report thereon, that the provisions of this Act and the regulations have been complied with, and the Provincial Secretary or such officer may, for that or for any other purpose under this Act, take evidence under oath. Proof to be furnished on application

(4) There shall be paid for a licence under this Act such fee as is prescribed by the Lieutenant Governor in Council. Fees
R.S.O. 1960, c. 246, s. 4.

5. The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the evidence required upon the application for a licence under this Act as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the form, duration and extent of licences, and the form of powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Act;
- (e) prescribing the form of the notices mentioned in subsection 2 of section 2 and of the release and cessation mentioned in subsection 4 of section 2;
- (f) prescribing fees for licences under this Act. R.S.O. 1960, c. 246, s. 5.

CHARITABLE USES

Conditions
under which
assurances
may be made
to charitable
uses

6. Save as otherwise provided in this Act, every assurance, other than by will, of land or personal estate to be laid out in the purchase of land to or for the benefit of any charitable use shall be void unless made,

- (a) to take effect in immediate possession for such charitable use;
- (b) without any power of revocation, reservation, condition or provision for the benefit of the assurator or of any person claiming under him; and
- (c) at least six months before the death of the assurator, and if of stock in the public funds by transfer thereof in the public books kept for the transfer of stock at least six months before such death,

provided that the assurance or any instrument forming part of the same transaction may contain all or any of the following conditions, so however that they reserve the same benefits to persons claiming under the assurator as to the assurator himself, namely,

- (i) the grant or reservation of a peppercorn or other nominal rent;
- (ii) the grant or reservation of mines or minerals;
- (iii) the grant or reservation of any easement;
- (iv) covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, or as to drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v) a right of entry on non-payment of any such rent or on breach of any such covenant or provision; or
- (vi) any stipulations of the like nature for the benefit of the assurator or of any person claiming under him,

and provided that nothing in this section applies to or affects any such assurance made for full and valuable consideration. R.S.O. 1960, c. 246, s. 6.

7.—(1) Subject to the provisions hereinafter contained, ^{Necessity for sale} where land is assured otherwise than by will to or for the benefit of any charitable use, the land shall, notwithstanding anything contained in the deed or other instrument of assurance, be sold within two years from the date of the assurance or within such extended period as may be determined by a judge of the Supreme Court.

(2) If the land is not sold within the two years or within ^{Idem} such extended period, it vests forthwith in the Public Trustee and subsection 2 of section 10 applies thereto.

(3) A judge of the Supreme Court, if satisfied that the land ^{When sanctioned} so assured is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention of the land. R.S.O. 1960, c. 246, s. 7.

EXEMPTIONS

8.—(1) In this section,

<sup>Interpre-
tation</sup>

- (a) “public park” includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (b) “school” means a school, or department of a school, at which education is given in literature, art, science or mathematics, or a vocational or technical school;
- (c) “schoolhouse” includes the teacher’s dwelling house, the playground, if any, and the offices and premises belonging to or required for a school;
- (d) “public museum” includes buildings used, or to be used, for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical, scientific or philosophical inventions, instruments, models or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and other offices and premises used or to be used in connection therewith.

(2) Notwithstanding anything in this Act, land or personal ^{Assurances for a public park, school, or museum} estate to be laid out in the purchase of land may be assured for the following purposes:

- (a) for a public park;

- (b) for a public museum;
- (c) for a public library;
- (d) for a school or schoolhouse.

Sale of land
assured for
school if not
required for
actual use

(3) Land assured for the purposes of a school or schoolhouse and not required for actual use and occupation for such purposes or the part thereof not so required shall be sold within two years from the date of the assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply. R.S.O. 1960, c. 246, s. 8.

Assurances
for certain
purposes

9. Sections 2 and 6 do not apply to the following assurances:

- (a) an assurance of land or personal estate to be laid out in the purchase of land, to or in trust for any incorporated university, college or school in Ontario, or for the support and maintenance of the students thereat;
- (b) an assurance, otherwise than by will, to trustees on behalf of any society or body of persons, incorporated or unincorporated, associated together for religious purposes, or for the promotion of education, art, literature, science or other like purposes, of land not exceeding two acres, for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected. R.S.O. 1960, c. 246, s. 9.

LAND DEVISED BY WILL

Power to
devise land
for charitable
use

10.—(1) Land may be devised by will to or for the benefit of any charitable use, but, except in the cases provided for by sections 8 and 9 and except as otherwise provided herein, shall, notwithstanding anything to the contrary in the will, be sold within two years from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court.

Where land
remains un-
sold after
expiration of
two years

(2) So soon as the two years or such extended period have expired without the completion of the sale of the land, the land vests forthwith in the Public Trustee who shall cause the land to be sold with all reasonable speed and after payment of the costs and expenses incurred in or connected with such sale and proceedings shall pay the proceeds to the trustees for the charity. R.S.O. 1960, c. 246, s. 10.

11. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable use shall, except as hereinafter provided, be held to or for the benefit of the charitable use as though there had been no direction to lay it out in the purchase of land. R.S.O. 1960, c. 246, s. 11.

Personal estate directed to be laid out in land

12. A judge of the Supreme Court, if satisfied that land, devised by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention or acquisition, as the case may be, of such land. R.S.O. 1960, c. 246, s. 12.

Power to retain land in certain cases

GIFTS AND BEQUESTS TO CERTAIN PUBLIC BODIES

13.—(1) The Government of Ontario, a municipal corporation, a school board, a public library board or association, a public hospital board and trustees empowered to administer or hold property for charitable uses may have, take, hold and enjoy by gift, grant, devise, conveyance or bequest real or personal property of any nature or kind and wherever situate, whether within or without Ontario, or the proceeds thereof upon the terms expressed in the gift, grant, devise, bequest or conveyance whereby the same is given, granted, devised, bequeathed or conveyed to such body.

Power of certain public bodies to accept gifts to charitable uses

(2) Any such body may, subject always to the provisions of the Act by or under the authority of which it exists and to any law regulating or limiting its power to contract debts, enter into an agreement for the holding, management, administration or disposition of any such property with the person giving, granting, conveying, devising or bequeathing the same to such public body upon such terms as may be agreed upon between the parties to any such gift, grant, devise, bequest or conveyance.

Agreement with donor as to administration

(3) Land so given, granted, devised, bequeathed or conveyed and not required for actual use and occupation for the purposes of the trust upon which it was given, granted, devised, conveyed or assured to such public body shall be sold within two years from the date of the gift, grant, devise, conveyance or assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply.

Necessity for sale within two years

Retroactive
effect of
section

(4) This section applies to gifts, grants, devises, bequests and conveyances heretofore made as well as to such as may hereafter be made. R.S.O. 1960, c. 246, s. 13.

SUPPLEMENTAL

Procedure
in cases of
breach of a
charitable
trust, etc., or
where order
necessary for
administration

14.—(1) In every case of a breach or supposed breach of any trust created for charitable purposes, or whenever the direction or order of a court is deemed necessary for the administration of any trust for charitable purposes, any two or more persons may present a petition to the Supreme Court stating such complaint and praying such relief as the nature of the case may require, and the court may hear the petition in a summary way and, upon such affidavits or such other evidence as is produced upon the hearing, may determine the same, and make such order therein, and with respect to the costs of the application, as seem just, and any order so made is subject to appeal as if made in an action.

Execution of
petition and
certificate
by Attorney
General

(2) Every such petition shall be signed by the persons preferring the same in the presence of and shall be attested by their solicitor, and shall be submitted to and may be allowed by the Attorney General, and such allowance shall be certified by him before any such petition shall be presented. R.S.O. 1960, c. 246, s. 14.

Saving for
existing
licences, etc.

15. Nothing in this Act applies so as to limit or restrict the right possessed by any corporation under any other Act, or affect any charter or licence in force at the passing of this Act enabling land to be assured or held in mortmain. R.S.O. 1960, c. 246, s. 15.

The Corporation Securities Registration Act

Revised Statutes of Ontario, 1960

CHAPTER 70

The Corporation Securities Registration Act

Revised Statutes of Ontario, 1960

CHAPTER 70

1. In this Act,

Interpre-
tation

- (a) "assignment of book debts" includes every legal or equitable assignment by way of security of book debts and every mortgage or other charge upon book debts;
- (b) "assignor" means a corporation that makes an assignment of book debts;
- (c) "book debts" means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
- (d) "chattels" means goods and chattels capable of complete transfer by delivery, and includes, when separately assigned or charged, fixtures and growing crops, but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, or growing crops when assigned with any interest in the land on which they grow, or a ship or vessel registered under the laws of Canada or any share in such ship or vessel, or shares or interests in the stock, funds or securities of a government, or in the capital of a corporation, or book debts or other choses in action;
- (e) "corporation" means a corporation wherever or however incorporated;
- (f) "creditors" means creditors of the mortgagor or assignor, whether execution creditors or not, who become creditors before the registration of the mortgage, charge or assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the

R.S.C. 1952,
cc. 14, 296

general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies, without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

- (g) "mortgagor" includes a corporation that executes a charge, and "mortgagee" includes a person in whose favour a charge is created;
- (h) "subsequent purchasers or mortgagees" includes a person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts that have already been mortgaged, charged or assigned. R.S.O. 1960, c. 70, s. 1.

Instruments
to be
registered

2.—(1) Every mortgage and every charge, whether specific or floating, of chattels in Ontario created by a corporation, and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation; or
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation; or
- (c) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

is void as against creditors of the mortgagor or assignor, and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with subsection 2.

Affidavit of
bona fides

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, the instrument containing it shall be accom-

panied by an affidavit of the mortgagee, trustee, or grantee or one of the mortgagees, trustees or grantees, his or their agent, or, if the mortgagee, trustee or grantee is a corporation, of any officer or agent of the corporation, stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein mentioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

(3) A mortgage, charge or assignment required to be registered under this Act shall, as against creditors and the subsequent purchasers or mortgagees referred to in subsection 1, take effect only from the time of its registration. R.S.O. 1960, c. 70, s. 2. When charge to take effect

3.—(1) Registration of every mortgage, charge or assignment shall, except as provided by subsection 2, be effected by filing with the Provincial Secretary a duplicate original of the instrument containing the mortgage, charge or assignment, together with the affidavit required by subsection 2 of section 2, and an affidavit made by an officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor, within thirty days from the date of the execution of the instrument. Registration, mode

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, shall be effected by filing with the Provincial Secretary, within thirty days after the execution of the bonds, debentures or debenture stock, an affidavit made by an officer or agent of the mortgagor or assignor, setting forth, Registration when charge in bond, etc.

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of the bond or debenture or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution. R.S.O. 1960, c. 70, s. 3.

4. Any affidavit made for the purposes of this Act by an officer or agent of a corporation shall state that the deponent is aware of the circumstances connected with the transaction and has a personal knowledge of the facts deposed to. R.S.O. 1960, c. 70, s. 4. Affidavit of corporation officer

Time
expiring on
holiday

5. When the time for filing an instrument containing a mortgage, charge or assignment, or an affidavit, expires on a Sunday or other day on which the office of the Provincial Secretary is closed, the filing is, so far as regards the time of filing, valid if made on the next following day on which the office is open. R.S.O. 1960, c. 70, s. 5.

Minutes of
registration

6. The Provincial Secretary shall cause every instrument containing a mortgage, charge or assignment, and every affidavit filed in his office under this Act to be numbered, to be endorsed with a memorandum of the day, hour and minute of its filing and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the mortgage, charge or assignment, the date of execution of the instrument containing the same or of the bonds, debentures or debenture stock not secured by separate instrument, as shown by the affidavit filed, and the date of filing and the amount secured as shown by the instrument or by the affidavit. R.S.O. 1960, c. 70, s. 6.

Rectifica-
tion of
omissions
and mis-
statements

7.—(1) Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, a judge of the Supreme Court, on being satisfied that the omission to file an instrument or affidavit within the time prescribed by this Act or any omission or misstatement in any document filed under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion, extend the time for registration, or order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit to direct.

Idem

(2) The order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and appropriate entries shall be made in the register. R.S.O. 1960, c. 70, s. 7.

Defects
and irregu-
larities

8. No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, and no defect, irregularity or omission in an affidavit, and no error of a clerical nature or in an immaterial or non-essential part invalidates or destroys the effect of the mortgage, charge or assignment or the registration thereof, unless, in the opinion of the court or judge before whom a question relating thereto is tried, such defect, irregularity, omission or error has actually misled a person whose interests are affected by the mortgage, charge or assignment. R.S.O. 1960, c. 70, s. 8.

9.—(1) An assignment of a mortgage or of a charge of ^{Assignment} chattels or of an assignment of book debts within this Act need not, but may, be filed with the Provincial Secretary.

(2) A mortgage or charge or assignment of book debts ^{Discharges and partial discharges} registered under this Act may be discharged in whole or in part by filing with the Provincial Secretary a certificate of discharge signed by the mortgagee, trustee, or assignee, his or its executors, administrators, successors or assigns, and, except in the case of a certificate of discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof, but, in case a mortgage, charge or assignment of book debts has been assigned, no certificate of discharge by an assignee shall be filed until the assignment has been filed.

(3) In the case of a mortgage, charge or assignment con- ^{Discharge when charge on face of securities} tained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, the Provincial Secretary may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the corporation with a copy thereof.

(4) The Provincial Secretary shall note the fact of such ^{Entry of assignment or discharge} assignment or discharge against each entry in the books of his office respecting the filing of the instrument or affidavit, and shall make a like notation upon that instrument or upon the affidavit filed under subsection 2 of section 3. R.S.O. 1960, c. 70, s. 9.

10.—(1) Upon payment of the prescribed fees, the Pro- ^{Certificate of filing} vincial Secretary shall give a certificate under his hand of the filing of any instrument or affidavit under this Act, and of the day and hour of the filing, and a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor.

(2) Every certificate furnished by the Provincial Secretary ^{Evidence} touching any matter dealt with by this Act shall be received for all purposes as *prima facie* proof of the facts set out in the certificate, and every copy of a document filed under this Act, certified by the Provincial Secretary, shall be received as *prima facie* proof for all purposes as if the original document were produced, and also as *prima facie* proof of the execution of the original document according to the purport of such copy.

Proof not
required of
Provincial
Secretary's
signature

(3) No proof shall be required of the signature of the Provincial Secretary in respect of any certificate produced as evidence under this section. R.S.O. 1960, c. 70, s. 10.

Searches

11. Upon payment of the prescribed fees, every person shall have access to and is entitled to inspect the books of the Provincial Secretary containing records or entries of mortgages, charges or assignments or documents registered or filed under this Act, and no person shall be required as a condition of his right thereto to disclose the name of the person in respect of whom such access or inspection is sought, and the Provincial Secretary shall, upon request, accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge, assignment or document so registered or filed. R.S.O. 1960, c. 70, s. 11.

Fees

12. For services under this Act, the Provincial Secretary is entitled to receive such fees as the Lieutenant Governor in Council prescribes. R.S.O. 1960, c. 70, s. 12.

Application
of Act

13. This Act applies only to mortgages or charges of chattels or assignments of book debts executed on or after the 30th day of May, 1932. R.S.O. 1960, c. 70, s. 13.

Charges
created
before
passing
of Act

14. A mortgage or charge of chattels or an assignment of book debts made before the 30th day of May, 1932, which if it had been executed on or after the 30th day of May, 1932, would be within this Act and which was properly registered or filed under any Act respecting the same, shall, notwithstanding anything contained in that Act or any other Act, not be required to be renewed. R.S.O. 1960, c. 70, s. 14.

R.S.O. 1960,
cc. 24, 34,
not to apply

15. *The Assignment of Book Debts Act* and *The Bills of Sale and Chattel Mortgages Act* do not apply to a mortgage, charge or assignment whose registration is provided for in this Act. R.S.O. 1960, c. 70, s. 15.

INDEXES
TO
THE CORPORATIONS ACT

The Corporations Information Act
The Mortmain and Charitable Uses Act
and
The Corporation Securities Registration Act

INDEX

THE CORPORATIONS ACT

Abbreviation	SEC.
. co-operative, of.....	125(2)
. . use of.....	125(3)
. Limited, of.....	20(1); 21(1)

Accounting practice	
. change in.....	.87(1a)

Accounts	
. insurance corporation, of, security of.....	185(1)

Accounts	
. auditor, access of, to.....	82(4)
. corporation, of	
. books of.....	314
. branch, at.....	317(2)
. disposal of, of corporation	
in voluntary winding up...	282(1)
. responsibility on.....	282(2)
. disposal of, of corporation	
in winding up by	
court.....	282(1); 283(2)
. responsibility on.....	282(2)
. evidence, as.....	240
. liquidator in voluntary	
winding up, of.....	279(1)
. to be kept at head office.....	317(1)
. . exception.....	317(2, 3)

Act	
. application of, to insurers.....	143(2)
. by-laws not contrary to..	67(1); 112(1)
. co-operative corporation,	
application to, of.....	124(2)
. foreign corporations	
continued under.....	323(3)
. proof under, by certificate.....	333
. relief from compliance with.....	346

Action	
. class	
. shareholders against, on	
decrease of issued capital...	36(4)
. shareholders against, on dissolution.....	329(2)
. corporation, against, on	
voluntary winding up.....	250
. corporation, against, on	
winding up by court.....	264
. director, against,	
indemnification re.....	72
. director for wages, against...	73(2) (b)
. . amount recoverable.....	73(3)
. liability of shareholder, re,	
by creditor.....	55(2)
. amount recoverable.....	55(3)
. defence to.....	55(4)
. recovery of calls by.....	53(8)

Action—Con.	SEC.
. shareholder against, on	
decrease of issued capital...	36(1, 3)
. shareholder, against, on	
dissolution.....	329
. unlicensed extra-provincial	
corporation, by.....	356(1)
. . effect of issue of licence on..	356(2)

Administrator—See Trustee

Advertising	
. power of company re.....	22(1) (a)

Affiliated company	
. defined.....	90(3)

Agent	
. company, of, by-laws re.....	67(1) (e)
. corporation without share	
capital, of, by-laws re.....	112(1) (h)
. mutual insurance corporation	
of, eligibility as director.....	181(1)
. power of company as.....	22(1) (u)

Agreement	
. amalgamation, for.....	96(2)
. . joint stock insurance	
company, re.....	148
. . mutual corporation, re.....	149(1)

Amalgamation	
. agreement for	
. adoption of.....	96(3)
. confirmation of.....	96(4)
. contents of.....	96(2)
. company, of, power re.....	96(1)
. fraternal society, of.....	192
. . confirmation of.....	193
. insurance corporation, of,	
agreement for.....	149(1)
. . confirmation of agreement	
for.....	149(2)
. . effect of.....	149(3)
. . valuation of contracts	
after.....	149(4)
. joint stock corporation, of.....	149(1)
. joint stock insurance	
company, of.....	148
. mutual corporation, of.....	149(1)
. mutual insurance	
corporation, of.....	186
. rights of creditors	
unimpaired by.....	324
. securities received on.....	208(3)

Annual meeting	
. auditor, appointment of, at.....	80(2)
. auditor's report to be	
laid before.....	83(1) (b); 211(1) (b)

Appointment—<i>Con.</i>	SEC.
transfer agent, of.....	41
vice-president, of.....	302(2)

Arrangement

application to court re	
meeting of shareholders re.....	95(2)
sanction of.....	95(4)
company and shareholders,	
between.....	95
company bound by.....	95(4)
confirmation of.....	95(4)
defined.....	95(1)
dissenting votes to.....	95(5)
reorganization, for, securities	
received on.....	208(3)
sanction of, by court.....	95(4)

Assets—*See also Property*

payment of claims out of,	
on winding up of insurer.....	235(1)
reduction of, by payment of	
dividends.....	61(6)

Assignments and Preferences Act

application of, to proof of claims.....	273
-----------------------------------------	-----

Audit

annual.....	82(1)
books, of.....	321(1)
special, re society.....	206(1)
duty of officers to facilitate.....	206(3)
expense of.....	206(4)
security for costs of.....	206(2)

Auditor

appointment of	
court, by.....	321(1)
Provincial Secretary, by.....	80(6)
shareholders, by.....	80(1, 2)
notice of, to.....	80(7)
books and records	
examined by.....	321(7)
cash-mutual insurance	
corporation, of, report of.....	219
examination by.....	82(1)
first, of company.....	80(1)
joint stock insurance	
company, of, report of.....	219
officers, etc., examined upon	
oath by.....	321(8)
private company, of.....	81(2)
qualification of.....	81(1)
records, access to, of.....	82(4)
removal of.....	80(4)
remuneration of.....	80(5, 6)
report of	
contents of.....	82(2, 3)
financial statement, re.....	92
inspection by	
shareholders of.....	83(3); 212(4)
mailing of, to shareholders.....	93(1)
required.....	82(2)
to be laid before	
annual	
meeting.....	83(1) (b); 212(1) (b)

Auditor—<i>Con.</i>	SEC.
----------------------------	-------------

report of— <i>Con.</i>	
to be read at annual	
meeting.....	83(3); 212(4)
report of, on audit.....	321(4)
evidence, admissible as.....	321(10)
report of, re co-operative	
sent to members of.....	139(1) (d)
transmission of.....	139(1) (c)
rights of.....	82(4)
shareholders meetings,	
attendance at, of.....	82(5)
tenure of office of.....	80(1, 2)
vacancy in office of.....	80(3)

Authentication

documents, of, by corporation.....	294
------------------------------------	-----

Balance sheet

contents of.....	86; 215
financial statement,	
in.....	83(1) (a) (iii); 212(1) (a) (iii)
insurer, of, copy of to	
Superintendent.....	221

Ballot

election of directors by.....	300(1)
election of directors of mutual	
insurance corporation by.....	182(2)

Bank

deposit of money in, by	
liquidator.....	272(1)

Bankrupt

undischarged, not to be	
director.....	299(5)

Bankruptcy Act (Canada)

liability of directors for	
wages, re.....	73(2, 4)

Bills of exchange—*See Negotiable instruments***Bills of lading—*See Negotiable instruments*****Board of directors—*See Directors*****Bonds**

purchase of, by insurer.....	208(2) (a-j)
------------------------------	--------------

Books—*See Books and records***Books and records—*See also Documents; Register***

audit of.....	321(1)
corporation, of	
branch, at.....	317(2)
inspection of.....	318(1)
defined.....	1(a)
disposal of, of corporation	
in voluntary winding up.....	282(1)
responsibility on.....	282(2)
disposal of, of corporation in	
winding up by court.....	282(1); 283(2)
responsibility on.....	282(2)

Books and records—<i>Con.</i>	SEC.	By-laws—<i>Con.</i>	SEC.
entry of particulars re		company, of— <i>Con.</i>	
share warrant in.....	48(2)	forfeiture of shares, re....	67(1) (a)
head office, to be kept at.....	317(1)	issue of share	
exception.....	317(3)	certificates, re.....	67(1) (a)
recision of.....	317(5)	issue of share, re.....	67(1) (a)
inspection of, order of.....	263(3)	meeting of directors, re....	67(1) (f)
insurer, of		meetings of	
evidence, as.....	240	shareholders, re.....	67(1) (f)
production of, by		officers, re.....	67(1) (e)
liquidator.....	237(2)	qualification of	
loose-leaf.....	1(a)	directors, re.....	67(1) (c)
minutes, of.....	312(1)	registration of transfer	
production of, to inspector.....	321(7)	of shares, re.....	67(1) (a)
rectification of.....	320(1)	transfer of shares, re.....	65; 66
application for.....	320(1)	removal of directors, re....	65; 66
shares transferable on.....	39(1)	remuneration of	
		directors, re.....	67(1) (c)
		servants, re.....	67(1) (e)
		subject matter of, included	
		in letters patent.....	18(2)
		transfer of shares, re.....	67(1) (a)
		unauthorized voting, re.....	76(1)
		confirmation of, in	
		writing.....	311(3)
		proof of.....	311(4)
		confirmation of, re	
		executive committee.....	69(2)
		co-operative corporation, of	
		binding effect of.....	138(2)
		delegates, re.....	137(1) (c-i)
		delivery to members	
		of.....	139(1) (b)
		distribution of property	
		on dissolution, re.....	136(2)
		distribution of surplus, re....	133(2)
		dividends, re.....	132(b)
		division of members, re....	137(1) (a)
		educational purposes, re....	146(2)
		effective on confirmation....	138(1)
		election of directors, re....	137(1) (b)
		election of directors in	
		rotation, re.....	300(6)
		filing of.....	139(1) (a)
		interest on loans, re.....	127
		investment of patronage	
		return, re.....	134(1)
		loan of patronage return,	
		re.....	134(4, 6)
		meetings of members,	
		re.....	137(1) (h)
		patronage return, re.....	133(2, 4)
		reserve fund, re.....	132(a)
		corporation, of.....	313 ¶2
		corporations under <i>Public</i>	
		<i>Hospitals Act</i> , directors	
		of, re.....	299(3)
		corporation without share	
		capital, of	
		admission of members,	
		re.....	112(1) (a)
		agent, re.....	112(1) (h)
		amendment of, at	
		members' meeting.....	112(3)
		classes of membership, re....	103
		conduct of affairs of, re....	112(1) (j)
		confirmation of.....	112(2)
		delegates, re.....	113(1)

Borrowing powers

- company of..... 58
- by-laws re..... 58
- co-operative corporation, of.... 127(2)

Branch register

- transfer, of..... 42(5)
- closing of..... 42(5)
- effect of registration in..... 42(2)
- registration in..... 42(3)
- where kept..... 42(1)

Branch transfer agent

- appointment of, by company..... 41

Buildings

- power of corporation
- to construct, etc..... 288(a)

Business

- carrying on, what not
- deemed..... 346(2)
- carrying on, without
- licence prohibited..... 346(1)
- exceptions..... 346(2)
- power of company to
- carry on other..... 22(1) (a)

By-laws

- borrowing powers of
- company, re..... 58(1)
- confirmation of..... 58(2)
- company, of
- agent, re..... 67(1) (e)
- allotment of shares..... 67(1) (a)
- amendment of, at
- shareholders' meeting..... 67(3)
- calls on shares..... 67(1) (a)
- closing of register of
- transfers, re..... 42(5)
- conduct of affairs of, re.... 67(1) (g)
- confirmation of..... 67(2)
- writing, in..... 310
- cumulative voting, re..... 64(1)
- declaration and payment
- of dividends, re..... 67(1) (b)
- distribution of
- property, re..... 97(1, 2)
- election of directors, re.... 67(1) (d)

By-laws— <i>Con.</i>	SEC.
corporation without share capital, of— <i>Con.</i>	
directors <i>ex officio</i> , re.....	110
distribution of property, re.....	115(1, 2)
election of directors, re.....	112(1) (g)
fees of members, re.....	112(1) (b)
meetings of directors, re.....	112(1) (i)
meetings of members, re.....	112(1) (i)
members, admission of, re.....	107
members, number of, re.....	106
membership cards, re.....	112(1) (c)
membership, transfer of, re.....	111(2)
officers, re.....	112(1) (h)
qualification of directors, re.....	112(1) (f)
remuneration of directors, re.....	112(1) (f)
servants, re.....	112(1) (h)
subject matter of, included in letters patent.....	102(2)
suspension of membership, re.....	112(1) (d)
termination of membership, re.....	112(1) (d)
transfer of membership, re.....	112(1) (e)
dividends, re.....	61(7, 8)
effect of, signed by directors.....	311(1)
evidence of.....	331
executive committee authorized by.....	69(1)
fraternal society, of.....	189
insurer, of	
delivery of copy of, to Superintendent.....	220
securities, re.....	208(14)
joint stock insurance company, of, election of directors, re.....	224(1)
life insurance company, of, decrease of capital authorized by.....	146(2)
meetings of directors, re.....	74(2)
meetings of executive committee, re.....	74(2)
method of transfer of shares, re.....	39(2)
mutual insurance corporation, of	
meeting for election of directors, re.....	170(1)
number of directors, re.....	176(2)
remuneration of directors, re.....	177
notice of meetings of shareholders, re.....	79(2)
payment of commission on subscription for shares, re.....	32(1, 2)
payment of president and directors, re.....	68
power to loan to shareholders exercised under authority of.....	23(3)
qualification of officers, re.....	304
seal of corporation, re.....	292
signing of share certificates, re.....	46

By-laws— <i>Con.</i>	SEC.
society, of	
enforcement of.....	202
filed with Provincial Secretary.....	198
general powers re.....	201
sanction of directors of.....	201
Calls on shares	
by-laws re.....	67(1) (a)
directors may make.....	53(1)
forfeiture of shares for unpaid.....	53(4)
liability for forfeiture stated in demand re.....	53(2)
liability of shareholder for interest if call unpaid.....	53(3)
recovery of, by action.....	53(8)
Capital	
authorized	
application for decrease of, evidence required on.....	34
change of, by supplementary letters patent.....	33(1) (c-e)
co-operative corporation, of, decrease of.....	135(3)
decrease of, by redemption of preference shares.....	27(13)
division of.....	24(1)
expression of, re shares without par value.....	24(3)
expression of, re shares with par value.....	24(2)
insurance corporation, of.....	145(3)
life insurance company, of.....	145(2)
regulations re.....	334(b)
reorganization of.....	95(1)
co-operative corporation, of, form of.....	127(1)
dividends, payment of, diminishing.....	61(3)
extent of impairment of, re dividends.....	61(6)
issued	
application for decrease of, evidence required on.....	34
co-operative corporation, of, decrease of.....	135(3)
decrease of.....	35
decrease of, by redemption of preference shares.....	27(13)
distributable surplus not part of.....	30(4)
expression of, re shares without par value.....	30(2)
expression of, re shares with par value.....	30(1)
liability of person holding shares in trust on decrease of.....	36(5)
liability of shareholders on decrease of.....	36(1)
unchanged by conversion of preference shares.....	27(15)
Cash-mutual corporations	
incorporation of.....	150(1)

- Cash-mutual fire insurance corporations** SEC.
 . application of ss. 155 to 160 to....155
 . application of ss. 168 to 183 to....168
 . conversion of, into joint stock company
 . . application for.....160(1)
 . . approval of members re.....160(2)
 . . liabilities of.....161
 . . vesting of assets of.....161
 . increase of share capital.....156(1)
- Cash-mutual insurance corporations**
 —See also **Mutual insurance corporations**
 . guarantee capital stock of.....154
 . amount of.....162(1)
 . distribution of.....167
 . division of, into shares.....162(2)
 . retirement of.....166
 . investment powers of.....208(4)
- Cause**
 . cancellation of letters patent, for.....322(3)
 . cancellation of letters patent for.....326(1) (a)
 . cancellation of supplementary letters patent for.....326(1) (c)
 . termination of corporate existence for.....326(1) (b)
- Caveat**
 . shareholders, by, against registration of transfer of shares.....50(2)
- Certificate—See also Share certificate; Fractional certificate**
 . evidence as member.....331
 . evidence as shareholder.....331
 . proof by.....333
- Cestui que trust**
 . liability of trustee for, re shares..56(3)
 . liability of, trust of, re shares...56(2)
- Chairman**
 . board of directors, of
 . . duties of.....303
 . . election of.....303
 . . qualification of.....304
 . . special resolution re.....303
 . . to be director.....304
 . . to be shareholder.....304
 . meetings of shareholders, of
 . . adjournment of, by.....79(1) (d)
 . . casting vote of.....79(1) (c)
 . . direction as to poll by.....79(3)
 . . president to be.....79(1) (e)
- Charitable objects**
 . power of company to subscribe money for.....22(1) (g)
- Charitable organizations** SEC.
 . distribution of property to.....115(1); 136(2) (c)
- Charter**
 . fraternal society, of.....188(1)
 . insurer, of, forfeiture of, for non-user.....210(1)
 . issue of.....3(1)
 . society, of.....197(1)
 . surrender of.....327(1)
 . . acceptance of.....327(2)
 . . authorization of.....327(1) (a)
 . . consent of creditors to...327(1) (c)
 . . notice of.....327(1) (e)
- Claims**
 . losses for, on winding up
 . of insurer.....235(1) (b)
 . mutual insurance corporation, against.....169(2)
 . proof of, in winding up.....273
 . refunds of unearned premiums, for.....235(2)
 . . calculation of.....235(3)
 . wages, for, priority of.....267(1) (b)
- Class**
 . extra-provincial corporation, of...344
- Clerks**
 . corporation, of, priority of claims of, in winding up..267(1) (b)
- Clubs—See Corporations without share capital**
- Collateral security**
 . liability of mortgagee holding shares as.....57(2)
- Commencement**
 . voluntary winding up, of.....248
 . winding up by court, of.....261
- Commission**
 . money received on account of shares, use of, for.....145(7)
 . shares or capital in payment of.....32(3)
 . subscription for shares, on.....32
- Committee—See Trustee**
- Common seal—See Seal**
- Common shares**
 . division into.....26
 . purchase of, by insurer....208(2) (k)
 . . limitation on.....208(7)
- Companies**
 . affiliated, defined.....90(3)
 . agent of, appointment, etc...67(1) (e)
 . amalgamation of.....96
 . application of Part II to.....17
 . arrangement with.....95
 . auditor of, appointment of...80(1, 2)

Companies—Con.	SEC.	Confirmation	SEC.
. borrowing powers of.....	58	. by-laws of company, of.....	67(2)
. branch transfer agent, appointment of, by.....	41	. . . writing, in.....	311(3)
. conduct of affairs of, by-laws re.....	67(1) (g)	. . . proof of.....	311(4)
. consent of, re indemnification of directors.....	72	. by-laws of corporation without share capital, of.....	112(2)
. conversion into a co-operative corporation....	33(1) (q)	. by-laws re executive committee, of.....	69(2)
. conversion into corporation without share capital.....	33(1) (p)	Consent	
. defined.....	1(b)	. company, of, re	
. defined re Part IV.....	117	indemnification of directors.....	72
. defined re Part V.....	123	. directors, of, re withdrawal of members of mutual insurance corporation.....	169(3)
. discharge of, by payment re shares subject to trust.....	47(2)	. directors, of, to transfer of shares.....	51(1)
. distribution of property of.....	97(1)	. . liability for.....	51(2)
. dividends, power to pay.....	61(1)	Construction	
. dividends, when paid by.....	61(3)	. power of company re.....	22(1) (j)
. documents and registers of.....	312	Continuation	
. execution of trusts re shares of.....	47(1)	. corporation, of.....	323(1)
. federal, use of word “co-operative” by.....	125(5)	. . rights of creditors unimpaired by.....	324
. forfeited shares become property of.....	53(5)	. foreign corporation, of.....	323(3)
. holding		Contract	
. . defined.....	90(2)	. company, with, interest of director in.....	70
. . shares of, held by subsidiary.....	94	. . effect of declaration re.....	70(4, 5)
. incidental powers of.....	22(1)	. corporation by	
. . withholding of.....	22(2)	. . parol.....	293(3)
. incorporated by special Act, application of provisions re supplementary letters patent to.....	33(8)	. . under seal.....	293(1)
. incorporation of.....	18(1)	. . written.....	293(2)
. liability of directors to		Contractor	
. . dividends, re.....	61(3)	. power of company re.....	22(1) (u)
. . transfer of shares, re.....	51(2)	Contributories	
. liability of, registration of transfer of shares, re.....	50(4)	. additional proceedings against....	277
. loans to shareholders and directors by.....	23(1, 2)	. administration of estate of, power of liquidation re....	269(1) (g)
. . power exercised under authority of by-law.....	23(3)	. application by	
. name, use of.....	21a	. . stay of winding-up proceedings, for.....	278
. not bound as to application of money paid re shares subject to trust.....	47(3)	. . winding-up order, for.....	257(1)
. officers of, appointment, etc.....	67(1) (e)	. compromise with, by liquidator.....	254
. power of company to promote other.....	22(1) (h)	. death of, liability of estate.....	271
. purchase of fractions of shares by.....	37(3)	. defined.....	241
. subsidiary		. liability of	
. . defined.....	90(1)	. . death, on.....	271
. . shares of holding company held by.....	94	. . nature of.....	270
. supplementary letters patent re....	33	. list of	
. transfer agent, appointment of, by.....	41	. . evidence, as.....	251(1)
. use of “Limited” in corporate name of.....	20(1); 21(1, 2)	. . voluntary winding up, in.....	251(1)
. wasting assets, with, dividends re.....	61(5)	. . winding up by court, in.....	262
		Co-operative companies	
		. notices of shareholders meetings, by-laws re.....	79(2)
		Co-operative corporations	
		. application of accounting provisions of Part II to.....	116(2)
		. application of Act to.....	124(2)

Co-operative corporations—Con. SEC.

- application of Part V to.....124(1)
- auditor's report of,
 - transmission of.....139(1) (c)
- borrowing powers of.....127(2)
- by-laws of
 - binding.....138(2)
 - confirmation of.....138(1)
 - delivery to members of.....139(1) (b)
 - filing of.....139(1) (a)
 - change of name of.....141
- corporate name of.....125(1)
- cumulative voting for director of.....64(2)
- distribution of property of,
 - priority on.....136(1)
- distribution of surplus of.....133(1)
- by-laws re.....133(2)
- educational purposes,
 - by-laws re.....140(2)
- educational work, power re.....140(1)
- election in rotation of
 - directors of.....300(6)
- financial statement, mailing
 - of, by.....93(1)
- financial statement of,
 - transmission of.....139(1) (c)
- members of, loans from.....127(1)
- membership of
 - termination of.....128
 - transfer of.....129(2)
- purchase of shares for
 - redemption by
 - consent of shareholder,
 - with.....135(1) (a)
 - corporate shareholder,
 - of.....135(1) (b)
 - notice of shareholder of.....135(4)
 - prohibition of.....135(2)
 - patronage return of
 - compulsory loan of.....134(4, 6)
 - deduction for educational
 - purposes from.....140(2)
 - defined.....133(3)
 - investment of.....134(1)
 - limitation of.....133(4)
 - purchase of shares out of.....134(3, 5)
 - removal from Part V of.....141
 - share capital of.....126(1)
 - share certificates of.....126(2)
 - shares of, transfer of.....129(1)

Copyrights

- power of company to acquire.....22(1) (c)

Corporate existence

- termination of
 - cause, for.....326(1) (b)
 - default in filing returns,
 - for.....326(2) (b)
 - where not incorporated by
 - letters patent.....328

Corporate name

- change of
 - continued corporation, of.....323(2)
 - effect on rights and
 - obligations.....14
 - reference to court re.....12(3)

Corporate name—Con. SEC.

- change of objectionable.....12(2)
- company, of, change by
 - supplementary letters
 - patent.....33(1) (b)
- co-operative corporation, of.....125(1)
- abbreviation of.....125(2)
- change of.....141
- use of.....125(3)
- corporation without share
 - capital, of, change by
 - supplementary letters
 - patent.....114(1) (b)
- extra-provincial
 - corporation, of.....350(2)
- insurer, of, use of
 - "Limited" in.....20(2)
- investments made in.....208(10)
- "Limited", use of, in.....20(1); 21(1, 2)
- mining company, of.....122
- mutual benefit society, of.....194(2)
- mutual fire insurance
 - corporation, of.....151(7)
- regulations re.....335(b)
- reservation of.....15
- restrictions on giving of.....12(1)
- use of.....21a

Corporations—See also Cash-mutual fire insurance corporations; Cash-mutual insurance corporations; Companies; Co-operative corporations; Corporations without share capital; Extra-provincial corporations; Mutual corporations; Mutual fire insurance corporations; Mutual insurance corporations; Mutual live stock insurance corporations; Mutual weather insurance corporations

- accounting records of.....315
- action against, after commencement
 - of voluntary winding up.....250
- action against, after
 - commencement of winding
 - up by court.....264
- annual meetings of.....306
- application by, for winding-up
 - order.....257(1)
- application of Part VII to.....242
- application of Part VIII to.....285
- audit of books of.....321(1)
- board of directors of
 - affairs managed by.....296(1)
 - number.....296(2)
- books of account of.....315
- branch, at.....317(2)
- head office, at.....317(1)
- inspection of.....318(1)
- buildings, power to
 - construct, etc.....288(a)
- business of, transaction by
 - directors of.....296(3)
- by-laws and resolutions of, in
 - first year of existence.....311(1, 2)
- by-laws of, evidence of.....331
- capacity of.....287

Corporations—Con.	SEC.
chairman of board of directors of.....	303
commencement of existence of.....	11
continuation of.....	323 (1)
corporate name changed on.....	323 (2)
objects changed on.....	323 (2)
contracts by	
parol.....	293 (3)
under seal.....	293 (1)
written.....	293 (2)
corporate powers exercised by, when less than three shareholders.....	322 (1)
deeds of, execution of, by power of attorney.....	296
defined.....	1 (c)
defined re Part V.....	123
demand by, service of.....	332
directors of	
change in number of.....	298 (1)
election in rotation of.....	300 (5)
first.....	297 (1)
qualification of.....	299
distribution of property of, in winding up.....	267 (1) (a)
cause, for.....	326 (1) (a, b)
default in filing returns, for.....	326 (2)
liability of shareholders on.....	329 (1)
dissolution of, in voluntary winding up	
by order of court.....	280 (1)
<i>ipso facto</i>	279 (3, 4)
dissolution of, in winding up by court.....	280 (1)
dissolution of, on surrender of charter.....	327 (2)
documents and registers of	
inspection of.....	318 (1)
kept at head office.....	317 (1)
required.....	313
documents, authentication of, by.....	295
extra-provincial, defined.....	343 (a)
extra-provincial powers of.....	287
extra-provincial, use of word "co-operative" by.....	125 (5)
foreign, continuation of.....	323 (3)
forfeiture of powers of.....	325 (1)
forfeiture of undisposed property on dissolution of.....	330
head office of	
change of.....	290 (2)
location of.....	290 (1)
incorporation of.....	3 (1)
subject to trusts.....	286
investigation of affairs of	
examination of officers upon oath on.....	321 (8)
expense of.....	321 (4)
production of books on.....	321 (7)
security costs of.....	321 (3)
investigation of affairs and management of.....	321 (1)
land	
power to acquire.....	288 (b)
restrictions on holding by.....	289 (1)

Corporations—Con.	SEC.
liability of, satisfied by liquidator in winding up.....	267 (1) (a)
list of shareholders of.....	319 (1)
minute books of.....	312 (1)
notice by, service of.....	332
objects of.....	3 (1)
officers of, appointment of.....	302 (2)
performance of duty of, ordered by court.....	341
president of, election of.....	302 (1)
proceedings against on surrender of charter.....	327 (1) (d)
purposes connected with, defined.....	319 (3)
reciprocal insurance by.....	334
relief of	
from compliance with Act.....	342
from provisions re removal of books and accounts.....	317 (3)
resolution by, re investigation of affairs.....	321 (5)
revival of powers of.....	325 (3)
seal of.....	292
secretary of, appointment of.....	302 (2)
social nature, of	
change of location of premises by.....	298 (a)
surrender of charter of	
acceptance of.....	327 (2)
authorized.....	327 (1)
consent of creditors to.....	327 (1) (c)
notice of.....	327 (1) (e)
termination of existence of.....	326; 328
revival.....	326 (3)
unauthorized use of word, in name.....	14
vice-president of, appointment of.....	302 (2)
voluntary winding up of	
authorized.....	243 (1)
commencement of.....	248
winding up by court of	
authorized.....	256
commencement.....	261

Corporations Information Act

private company, exemptions of, under.....	98 (1)
--------------------------------------------	--------

Corporation Securities Registration Act

mortgages filed under.....	60 (2)
----------------------------	--------

Corporations without share capital

agent of, appointment, etc.....	112 (1) (h)
application of Part II to.....	116 (1)
application of Part III to.....	100
conduct of affairs of, by-laws re.....	112 (1) (j)
conversion into company of.....	114 (1) (e)
contents of application for.....	114 (4)
conversion into co-operative corporation.....	114 (1) (f)

Corporations without share capital

- Con.* SEC.
- . incorporated by special Act, application of provisions re supplementary letters patent to.....114(6)
 - . incorporation of.....102(1)
 - . members of
 - . . . classes of.....103
 - . . . no gain for.....109(1)
 - . . . number of.....106
 - . . . original.....104
 - . objects of, nature of.....101
 - . officers of, appointment, etc.....112(1) (h)
 - . property of, distribution of.....115
 - . supplementary letters patent re...114

**Corporations with share capital—
See Companies****Costs**

- . payable by insurer to province...236
- . proceedings re rectification of books, etc., re.....320(6)
- . provisional liquidation, of...229(2, 3)
- . security for, on investigation of corporation.....321(3)
- . winding up insurer, of, payment of.....234(1) (a)
- . winding up, of, priority of.....268

County court—See also Court

- . proceedings in, removal into Supreme Court of.....337(1, 3)
- . . . notice re.....337(1)
- . . . reference to Master on.....337(4)
- . . . transmission of papers on...337(2)

**Court—See also County court;
Supreme Court**

- . additional jurisdiction of, re rectification of books, etc. 320(5)
- . appearance of persons before, in winding up.....275(1)
- . application to
 - . . . aggrieved shareholder by.....341
 - . . . arrangement, re.....95(2, 4)
 - . . . contravention of letters patent by private company, re.....98(2)
 - . . . direction re winding up, for.....274
- . auditor appointed by.....321(1)
- . certified copy of licence as evidence in.....352
- . change of name by order of.....12(3)
- . decision as to title by, re rectification of books, etc. 320(2)
- . defined.....1(d)
- . discharge by, of liquidator in winding up by court.....283(1)
- . disposal of books, etc., of corporation directed by.....282(1); 283(2)
- . dissolution of corporation by...280(1)
- . distribution by, of assets of corporation in winding up by court.....283(1)

Court—Con.

SEC.

- . estate of corporation under control of, in winding up.....266(2)
- . holding of meeting of shareholders ordered by.....310
- . inspector appointed by.....321(1)
- . *ipso facto* dissolution of corporation deferred by.....279(4)
- . leave of, for action against corporation on voluntary winding up.....250
- . leave of, for action against corporation on winding up by court.....264
- . liquidator appointed by.....259(1); 266(1)
- . order of, winding up corporation.....256
- . powers of
 - . . . application for winding-up order, on.....258
 - . . . repayment of misapplied funds, re.....275(2)
- . proceedings by shareholders at own expense in winding up, authorized by.....276(1)
- . rectification of books, etc., by order of.....320(1)
- . reference to, re change of name.....12(3)
- . stay of winding-up proceedings by.....278
- . winding up by court, in
 - . . . list of contributories settled by.....262
 - . . . meetings of shareholders called by.....263(1)
 - . . . payment from contributories required by...263(2)

Court of Appeal

- . appeal to, from order by court...338

Creditors

- . aggrieved, application to court by.....341
- . application by
 - . . . direction of court re winding up, for.....274
 - . . . stay of winding-up proceedings, for.....278
- . . . winding-up order, for.....257(1)
- . arrangement with, re power of liquidator in voluntary winding up.....245
- . claims of preferred, on winding up of insurer...235(1) (d)
- . compromise with, by liquidator.....253
- . consent by, to surrender of charter.....327(1) (c)
- . inspection of books, etc., of corporation by.....318(1)
- . liability of shareholders to
 - . . . decrease of issued capital, on...36(1)
 - . . . dissolution of corporation, on.....329(1)

Creditors—Con.	SEC.
. payment of, on winding up	
of insurer.....	231(4)
. rights of	
. . forfeiture of charter of	
insurer, on.....	210(2)
. . unaffected by forfeiture of	
powers of corporation.....	325(2)
. . unimpaired by amalgamation	
or continuation of	
corporation.....	324
. unknown, payment of debt	
owing to.....	281(3); 327(4)
Credit Unions Act	
. corporations under	
. . "co-operative" in name of....	125(5)
. . cumulative voting.....	64(2)
Crown	
. forfeiture of property on	
dissolution of corporation to....	330
Cumulative voting	
. authorization of.....	64(1)
. . co-operatives, re.....	64(2)
Death	
. contributory, of, liability on.....	271
Debentures	
. purchase of, by insurer....	208(2) (a-i)
Debt	
. claim for wages as.....	73(1)
. . rights of directors on	
payment of.....	73(4)
. liability of contributory as.....	270
Debtors	
. additional proceedings against....	277
. compromise with, by	
liquidator.....	254
Deed	
. corporation, of, by	
power of attorney.....	294
. security secured by, condition	
re redemption in.....	59
Defence	
. shareholder, of, set-off.....	55(4)
Delegates	
. authority of, at	
meetings.....	113(1)(f); 137(1)(g)
. election of...113(1) (c, d); 137(1) (c, e)	
. meetings of...113(1) (e, g); 137(1) (f, h)	
. number of.....113(1) (d); 137(1) (e)	
. qualification of.....113(4); 137(3)	
. voting by.....113(3); 137(2)	
Delegation	
. powers of directors of	
society to trust	
company, of.....	199(2)

Demand	SEC.
. service of, upon shareholder	
. . manner of.....	332(1)
. . time of.....	332(2)
Dependants	
. defined.....	200(1)
. employees of society, of,	
benefits to.....	200(2)
Deposit	
. administration of.....	232(2)
. . costs of.....	232(3)
. defined.....	225(a)
. reinsurance on winding up	
of insurer, use on, of.....	231(3)
. testamentary instruments, of,	
re transmission of shares.....	52(a)
. payment of costs of	
provisional liquidator	
out of.....	29(3)
. transfer of, to liquidator.....	232(1)
Deposit account	
. separate, of liquidator in	
winding up.....	272(3)
. withdrawal of money from,	
in winding up.....	272(3)
Directors	
. age of.....	299(4)
. appearance of, before court	
or liquidator.....	275(1)
. application to court for	
meeting of shareholders by.....	310
. auditor, appointment of, by.....	80(1)
. auditor, as, appointment of,	
by.....	81(1, 2)
. . notice of.....	81(3)
. auditor, remuneration of,	
fixed by.....	80(5)
. auditor, vacancy in office of,	
filled by.....	80(3)
. bankrupt not to be.....	299(5)
. board of	
. . affairs managed by.....	296(1)
. . chairman of.....	303
. . number of.....	296(2)
. . quorum of.....	301(1)
. by-laws re deposit of proxy by.....	75(5)
. by-laws re executive	
committee by.....	69(1)
. chairman of board of directors	
to be.....	304
. change in number of.....	298(1)
. company, of	
. . borrowing powers of.....	58(1)
. . by-laws, general powers	
to pass.....	67(1)
. . closing of register of	
transfers by.....	42(5)
. . distribution of property,	
by-laws re, by.....	97(1)
. . election of, by-laws re.....	67(1) (d)
. . meetings of, by-laws re....	67(1) (f)
. . qualification of, by-laws re.	67(1) (c)
. . remuneration of,	
by-laws re.....	67(1) (c)

Directors—<i>Con.</i>	SEC.
company, of— <i>Con.</i>	
shareholder, to be.....	299(1, 2)
voting at election of.....	64(1)
continuanee in office of, until successors elected.....	300(4)
co-operative corporation, of	
election of, for groups.....	137(1) (b)
qualification of.....	131
termination of membership by..	128
transfer of membership authorized by.....	129(2)
transfer of shares authorized by.....	129(1)
corporation, of	
election of, annual.....	300(2)
election of, by shareholders.....	300(1)
election of, in rotation.....	300(5)
number of.....	296(2)
performance of duty of, ordered by court.....	341
corporation without share capital, of	
by-laws, general power to pass.....	112(1)
election of, by-laws re.....	112(1) (g)
election of, for groups.....	113(1)(b)
<i>ex officio</i>	110
meeting of, by-laws re.....	112(1) (i)
members admitted by.....	107(1)
member, to be.....	299(1, 2)
qualification of, by-laws re.....	112(1) (f)
remuneration of, by-laws re.....	112(1) (f)
remuneration of, right to.....	109(2)
declaration of interest in contract with company of.....	70(1)
effect of.....	70(4, 5)
general notice deemed.....	70(3)
time of making.....	70(2)
defect in appointment of.....	305
delegation of powers by.....	69(1)
dividends, powers to declare.....	61(1)
dividends, when declared by.....	61(3)
documents authenticated by.....	293
effect of signing of by-laws by.....	311(1)
effect of signing of resolutions by.....	311(1)
examination into misapplication of funds by, in winding up.....	275(2)
financial statement, approval of, by.....	92
financial statement, etc., to be laid before annual meeting by.....	83(1); 212(1)
first	
defined.....	297(2)
named in instrument of incorporation.....	297(1)
powers and duties of.....	297(3)
replacement of.....	297(1)
indemnification of, re actions against.....	72

Directors—<i>Con.</i>	SEC.
interest in arrangement, by.....	95(3)
joint stock insurance company, of	
election of, by-laws re.....	224(1)
number of.....	224(2)
qualification of.....	223
vacancy in office of.....	224(2)
liability of	
consent to registration of transfer of shares, re.....	51(2)
limitation of, re wages.....	73(2)
loans to shareholders, re.....	23(4)
payment of dividends, re.....	61(3)
relief from.....	51(3); 61(4)
wages of clerks, for.....	73(1)
life insurance company of, re decrease of capital.....	141(2)
loans to.....	23(1, 2)
meetings of	
business of corporation at.....	296(3)
minutes of.....	312(1)
place of.....	74
meetings of shareholders called by.....	307
mutual corporation, of, amalgamation agreement by..	149(2)
mutual fire insurance corporation, of	
election of.....	151(7)
first meeting of.....	151(9)
mutual insurance corporation, of	
annual election of.....	179
annual statement sent to members by.....	172(3)
consent of, re withdrawal of member.....	169(3)
election of.....	170; 171; 182(1)
election of president by.....	182(4)
fees for receiving application for insurance, re.....	181(1)
manager may be.....	180
meetings, power to call.....	172(2)
number of.....	176
persons not eligible as.....	181(1)
qualification of.....	175
quorum at meetings of.....	184(1)
recording dissent of.....	184(2)
remuneration of.....	177
retirement of.....	178
vacancy in office of.....	183
notice of default in filing annual returns sent to.....	326(2)
officers appointed by.....	302(2)
officers need not be.....	304
payment of, by-laws re.....	68
powers of	
cessation of, on appointment of liquidator.....	267(1) (c)
registration of transfer of fully-paid shares, re.....	39(3)
to forfeit shares for unpaid calls.....	53(4)
to make calls on shares.....	53(1)
to receive money uncalled on shares.....	54

Directors—<i>Con.</i>	SEC.
powers of— <i>Con.</i>	
to recover unpaid calls	
by action	53(8)
when vacancy in board	296(3)
winding up, in	267(1) (c)
president elected by	302(1)
president to be	304
qualification of	
defect in	305
provisions re	298
rate of discount, re	
resolution of	120(3)
register of	313 ¶4
removal of, by resolution of	
shareholders	65; 66
returns of dealings of, to	
be filed by	71
rights of, on payment of debt	
for wages	73(4)
secretary appointed by	302(2)
society, of	
election of	199(1)
first	198
parent corporation, of	
sanction of by-laws by	201(3)
vacancies in board of	
filling of	301(2, 3)
validity of acts of	305
vice-president appointed by	302(2)
Discharge	
receipt of shareholder as	47(2)
Discount	
resolution re rate of	120(3)
shares issued at	120
Dissenting shareholders—<i>See also</i>	
Shareholders	
rights of, re private company	99(1)
termination of	99(6)
Dissolution	
by-laws of corporation without	
share capital re	115(1)
continuance after	326a
co-operative corporation, of	
distribution of property on	136(2)
corporation in voluntary	
winding up, of	
by order of court	280(1)
<i>ipso facto</i>	279(3, 4)
corporation in winding up	
by court, of	280(1)
corporation, of	327(2)
cause, for	326(1) (a, b)
default in filing returns, for	326(2)
forfeiture of property on	330
liability of shareholders on	329(1)
Distribution	
assets of corporation, of	
by court in winding up	283(1)
endowment fund of	
fraternal society, of	238(1)
procedure on	238(2)
property, of, by	
liquidator	267(1) (a)

Distribution—<i>Con.</i>	SEC.
property of company, of	
by-laws re	97(1)
property of co-operative	
corporation, of	
dissolution, on	136(2)
priority on	136(1)
property of corporation	
without share capital, of	
by-laws re	115(1)
where no by-law	115(5)
surplus of co-operative	
corporation, of	133(1)

District court—*See* County court

Dividends	
by-laws re	61(7, 8)
by-laws re declaration and	
payment of	67(1) (b)
cash-mutual fire insurance	
corporation, of	159
cash-mutual insurance	
corporation, of	163
company with	
wasting assets, of	61(5)
co-operative corporation, of	
by-laws re	132(b)
impairment of capital by	
payment of	61(6)
manner of payment of	61(2)
mining company, of	61(5)
mutual insurance corporation, of	163
power of company to pay	61(1)
power of directors to declare	61(1)
stock, declaration of	62
transfer register closed on	
declaration of	63
when to be declared	61(3)

Documents—*See also* Books and records; Register

authentication of, by corporation	295
corporation, of	313
inspection of	318(1)
disposal of, of corporation in	
voluntary winding up	282(1)
responsibility on	282(2)
disposal of, of corporation in	
winding up by	
court	282(1); 283(2)
responsibility on	282(2)
evidence, as	240
filing of, payment of fees before	336
forms of, regulations re	358(d)
incorporation of fraternal	
society accompanied by	188(4)
Provincial Secretary, to, re	
incorporation of mutual fire	
insurance corporation	151(10, 11)
rectification of	320(1)
application for	320(1)
to be kept at head office	317(1)
exception	317(3)

Dominion companies

use of word "co-operative" by	125(5)
-------------------------------	--------

- | | | | |
|--------------------------------------------|-----------------------------|------------------------------------------|-----------------|
| Duties | SEC. | Executive committee | SEC. |
| agents of company, of..... | 67(1) (e) | by-law authorizing..... | 69(1) |
| agents of corporation without | | constitution of..... | 69(1) |
| share capital, of..... | 111(1) (h) | delegation of power to..... | 69(1) |
| officers of company, of..... | 67(1) (e) | meetings of | |
| officers of corporation without | | minutes of..... | 312(1) |
| share capital, of..... | 111(1) (h) | place of..... | 74(1, 2) |
| | | quorum of..... | 69(3) |
| Election | | Executor—See Trustee | |
| chairman of board of | | Exemption | |
| directors, of..... | 303 | licence, from, reciprocal | |
| delegates, of..... | 113(1) (c, d); 137(1) (c-e) | legislation re..... | 345 |
| director <i>ex officio</i> in lieu of..... | 110 | Expenses | |
| directors of company, of | | investigation of | |
| by-laws re..... | 67(1) (d) | corporation, of..... | 321(4) |
| voting at..... | 64(1) | meetings of shareholders, of... | 308(6) |
| directors of corporation, of | | notice of resolution to | |
| annual..... | 300(2) | shareholders, of..... | 309(4) (b), (8) |
| rotation, in..... | 300(5) | winding up, of, priority of..... | 268 |
| shareholders, by..... | 300(1) | Extra-provincial corporations | |
| directors of corporation without | | application by, for licence..... | 347(1) |
| share capital, of, | | classes of..... | 344 |
| by-laws re..... | 112(1) (g) | defined..... | 343(a) |
| directors of joint stock | | exemption from regulations | |
| insurance company, of, | | re licence..... | 345 |
| by-laws re..... | 224(1) | land, power to acquire..... | 353 |
| directors of mutual insurance | | name of licensed, not to be | |
| corporation, | | objectionable..... | 350(2) |
| of..... | 170; 171; 178; 182(1) | unlicensed, actions by..... | 356(1) |
| ballot, by..... | 182(2) | use of word "co-operative" by... | 125(5) |
| procedure in case of tie at... | 182(3) | Fees | |
| directors of society, of..... | 199(1) | application for insurance, for, | |
| president, of, by directors..... | 301(1) | director taking..... | 181(2) |
| president of mutual insurance | | extra-provincial licence, for..... | 357 |
| corporation, of..... | 182(4) | members, of, by-laws re... | 112(1) (b) |
| Employees | | payable by insurer to province... | 236 |
| performance of duty of, | | payment of, before issue of | |
| ordered by court..... | 341 | letters patent, etc..... | 336 |
| Employees' mutual benefit societies | | renewal, for, of destroyed | |
| —See Societies | | share certificates..... | 44 |
| Endowment fund | | share certificates, for..... | 43(3) |
| conversion of, into life | | tariff of, regulations re..... | 335(a) |
| insurance fund..... | 238(3) | variation of..... | 335(a) |
| Evidence—See also Proof | | Filing | |
| application for licence, on, | | requisition, of, for returns of | |
| regulations re..... | 358(a) | directors..... | 71(2) |
| books of insurer as..... | 240 | returns of directors, of..... | 71(3) |
| by-laws of corporation, of..... | 331 | tariff of fees on..... | 335(a) |
| documents and registers of | | Financial statement—See Statement | |
| corporation as..... | 314 | Forfeiture | |
| liability of contributories, of... | 251(2) | charter, of, of insurer..... | 210(1) |
| minutes of meetings as..... | 79(1) (f) | rights of creditors on..... | 210(2) |
| notice of issue of licence as... | 352 | powers of corporation, of | |
| proceedings at meetings, of... | 312(2) | non-user, for..... | 325(1) |
| report of inspector | | rights of creditors unaffected | |
| admissible as..... | 321(10) | by..... | 325(2) |
| Examination | | property, of, on dissolution of | |
| delinquent directors, officers, | | corporation..... | 330 |
| etc., of, by court..... | 275(2) | shares, of, by-laws re..... | 67(1) (a) |
| directors for wages, re..... | 73(3) | unpaid shares, of..... | 53(4) |
| company, against, unsatisfied... | 55(2) | | |
| shareholders on decrease of | | | |
| issued capital, re..... | 36(3) | | |

Forms	SEC.
affidavit, of, re list of	
shareholders.....	319(1)
regulations re.....	358(d)

Fractional certificate	
fractions of shares, for.....	37(1)
transferable by delivery.....	37(2)

Fraternal societies	
amalgamation of.....	192(1)
. . . agreement for.....	192(2)
by-laws of, adoption of.....	189
endowment fund of	
conversion of, into life	
insurance fund.....	238(3)
distribution of.....	238(1)
incorporation of.....	188
. . . approval of	
Superintendent	190(3)
incorporation of foreign.....	190
local branch of.....	191
organization meeting of.....	189

Freeholders	
meeting of, mutual fire	
insurance corporation, re.....	151(1)

Funds	
endowment, conversion of,	
into life insurance fund.....	238(3)
life insurance, conversion	
of endowment fund into.....	238(3)
reinsurance on winding up	
of insurer, available for.....	231(2)
society, of	
by-laws re.....	201(2)
contribution of parent	
corporation to.....	204
management of.....	199(2)
members' interest in.....	205
power to form.....	200(2)

General meetings—See Meetings

Government securities	
purchase of, by insurer.....	208(2) (a)

Guarantee capital stock	
cash-mutual fire insurance	
corporation, of.....	154
cash-mutual insurance	
corporation, of.....	154
distribution of.....	167
holders of, entitled to	
dividend.....	163
mutual insurance corporation, of.....	162
payment of losses out of.....	164
retirement of.....	166(1)
. . . notice of intention re.....	166(3)
. . . vote of policyholders, by.....	153(2)

Guardian—See Trustee

Head office	
books and accounts of	
corporation at.....	317(1)
. . . exception.....	317(3)
. . . rescission of.....	317(5)

Head office—Con.	SEC.
change of.....	290(2)
location of.....	290(1)
register of shareholders at.....	42(1)
register of transfer at.....	42(1)

Holding company—See also	
Subsidiary company	
defined.....	90(2)
shares of, held by subsidiary.....	94

Hours of Work and Vacations with	
Pay Act	
vacation pay under	
liability of directors for.....	73(1)
priority of, in winding up.....	267(1) (b)

Incorporated	
unauthorized use of.....	14

Incorporation	
application for, sufficiency of.....	6
application of provisions re.....	2
company, of.....	18(1)
corporation without	
share capital, of.....	102(1)
fraternal society, of.....	188
fraternal society, of, foreign.....	190
insurer, of, application of	
Part VI to.....	143(1)
joint stock insurance	
company, of.....	144(1)
letters patent, by.....	3(1)
mutual benefit society, of.....	194(1)
mutual fire insurance corporation,	
re application for.....	151(10)
mutual livestock insurance	
corporation, of.....	151
mutual weather insurance	
corporation, of.....	153
power of company to pay	
costs of.....	22(1) (s)
private company, of.....	3(2)
society, of.....	197

Insolvent	
company, dividends of.....	61(3)
company, redemption of	
preference shares when.....	27(10)
co-operative corporation	
loan of patronage return to.....	134(6)
purchase for redemption of	
shares of.....	135(2) (c)
. . . purchase of shares of.....	134(6)
private company, purchase	
of shares by.....	99(3)

Inspection	
books, etc., of corporation, of.....	318(1)

Inspectors	
application by	
direction of court re	
winding up, for.....	274
. . . production of pass-book, re.....	272(5)
appointment of	
corporation, by.....	321(5)
court, by.....	321(1)

- | | | | |
|-----------------------------------------------|----------------|----------------------------------------|-------------|
| Inspectors—<i>Con.</i> | SEC. | Insurers—<i>Con.</i> | SEC. |
| bank to be approved by..... | 272(2) | winding up of | |
| books and records | | application of Part VII to.... | 226(1) |
| examined by..... | 321(7) | order of court, by..... | 221 |
| officers, etc., examined | | Interest | |
| upon oath by..... | 321(8) | unpaid call, on..... | 53(4) |
| power of, to appoint liquidator.... | 245 | Intestate | |
| report of, on investigation.... | 321(4, 6) | liability of administrator | |
| evidence, admissible as..... | 321(10) | for, re shares..... | 56(3) |
| Instrument | | liability of estate of, re shares.... | 56(2) |
| proxy, of..... | 75 | Investigation | |
| Insurance | | corporation, of..... | 327(1) |
| applicants for, voting | | Investments | |
| rights of..... | 174 | corporate name only, in..... | 208(10) |
| cash plan, on, re cash-mutual | | insurer, by, restrictions on.... | 208(11) |
| fire insurance corporation..... | 158 | power of cash-mutual | |
| power of company to make | | insurance corporation re..... | 208(4) |
| payments toward..... | 22(1) (g) | power of company re..... | 22(1) (t) |
| reciprocal..... | 334 | power of insurer re..... | 208 |
| Insurance Act | | power of joint stock | |
| application of definitions in | | insurance company re..... | 208(4) |
| section 1 of, to Part VI..... | 142 | securities in default, in..... | 208(9) |
| failure of insurance corporation | | unauthorized, disposal of..... | 208(15) |
| to secure licence under..... | 145(6) | Issue | |
| offences under..... | 222 | letters patent, of, continuing | |
| Insurance corporations—<i>See also</i> | | corporation..... | 323(1) |
| Cash-mutual fire insurance | | trial of, re rectification of | |
| corporations; Insurers; Life | | books, etc..... | 320(3) |
| insurance companies; Mut- | | Joint stock corporations | |
| ual insurance corporations; | | amalgamation of..... | 149(1) |
| Mutual livestock insurance | | Joint stock insurance companies | |
| corporations; Mutual weather | | amalgamation of..... | 148 |
| insurance corporations | | annual meetings of..... | 224(5) |
| application of Act to..... | 143(2) | directors of | |
| application of Part VI to..... | 143(1) | by-laws re election of..... | 224(1) |
| authorized capital of..... | 145(3) | qualification of..... | 223 |
| division into shares of..... | 145(4) | incorporation of | |
| officers of, security of..... | 185 | notice of intention to | |
| voluntary winding up, of..... | 230 | apply for..... | 144(2) |
| winding up of, application | | purposes of..... | 144(1) |
| of Part VII to..... | 226(1) | investment powers of..... | 208(4) |
| Insured person | | Jurisdiction | |
| defined..... | 225(b) | court, of, re rectification of | |
| Insurers | | books, etc..... | 320(5) |
| additional securities taken | | Land | |
| by, to secure repayment | | forfeiture of | |
| of liabilities..... | 208(13) | dissolution of corporation, on.... | 330 |
| application of accounting | | extension of time re..... | 289(2) |
| provisions of Part II to..... | 116(3) | power of corporation to | |
| application of Act to..... | 143(2) | acquire..... | 288(b) |
| application of Part VI to..... | 143(1) | power of extra-provincial | |
| application of Part VII to..... | 226(1) | corporation to acquire..... | 353 |
| costs payable to province by..... | 236 | restrictions on holding of..... | 289(1) |
| defined..... | 208(1); 226(2) | statement of, by corporation.... | 289(3) |
| fees payable to province by..... | 236 | Letters of administration | |
| interest of, in formation of | | power of liquidator to take | |
| other corporation..... | 208(12) | out..... | 269(1) (g) |
| investment powers of..... | 208; 209 | production of, re | |
| "Limited", use of in name of.... | 20(2) | transmission of shares..... | 52(a) |
| reinsurance of contracts of, | | | |
| on winding up..... | 231(1) | | |
| voluntary winding up of..... | 230 | | |

**Letters patent—See also Charter; SEC.
Supplementary letters patent**

- . amalgamation of companies by.96(4)
- . application for.3
-variation of terms of.8
- . cancellation of
 -cause, for.326(1) (a)
 -default in filing returns,
 -for.326(2) (a)
 -inquiry re.326(1a-1h)
 -when shareholders less
 -than three.322(3)
- . company, re
 -by-laws not contrary to.67(1)
 -by-laws, subject matter of,
 -included in.18(2)
- . contravention of, by
 -private company.98
- . corporation continued by.323(1)
- . corporation without share
 -capital re
 -by-laws not contrary to.112(1)
 -by-laws, subject matter of,
 -included in.102(2)
 -directors *ex officio* in.110
 -members, admission of, in.107
 -members, number of, in.106
 -membership, transferability
 -of.111(2)
- . cumulative voting for
 -directors authorized by.64(1)
- . defects in form.9
- . election of directors in
 -rotation provided by.300(5)
- . first directors of corporation
 -named in.297(1)
- . fraternal society,
 -incorporation by.188(1)
- . incorporation by.3(1)
- . issue of, payment of fees before.336
- . meetings of shareholders
 -outside Ontario authorized by.74(3)
- . membership, classes of, in.103
- . mutual fire insurance
 -corporation, of, powers
 -limited by.151(13)
- . mutual livestock insurance
 -corporation, of, powers
 -limited by.152(3)
- . mutual weather insurance
 -corporation, of, powers
 -limited by.153(3)
- . notice of issue of.10
- . payment of dividends
 -subject to.61(1)
- . preference shares in series
 -authorized by.28(1)
- . provisions re preference
 -shares in.27
- . quorum of board of directors,
 -provision re, in.301(1)
- . regulations re
 -applications for.335(b)
- . removal of directors,
 -provision re, in.65; 66
- . society, incorporation of, by.197(1)
- . votes provided for in.29(2)

- Letters probate** SEC.
- . production of, re
 -transmission of shares.52(a)

Liabilities

- . power of company to
 -undertake.22(1) (b)

**Liability—See Companies; Con-
tributories; Corporations;
Directors; Members; Share-
holders**

Licence

- . application for.347(1)
- . exemption from, regulations re.345
- . failure to obtain, by
 -insurance corporation.145(6)
- . fees for.357
- . forms of, regulations re.358(d)
- . insurer, of
 -cancellation of.228(1) (b)
 -expiration of.228(1) (a)
 -extension of, re winding up.239
- . issue of.349; 350(1)
-notice of.351
- . limitations and
 -conditions in.348; 350(1)
- . power of company
 -to acquire.22(1) (c)
- . prohibition re carrying on
 -business without.346(1)
 -exceptions.346(2)
- . suspension of.354(1)
-notice of.354(2)

Lieutenant Governor

- . application for incorporation
 -of company filed with.18(1)
- . application for incorporation
 -of corporation without
 -share capital filed with.102(1)
- . application for licence to.347(1)
- . application to, re
 -amalgamation of
 -companies.96(4)
 -application to, re decrease
 -of capital of life insurance
 -company.146(2)
 -cancellation of letters
 -patent by.322(3)
 -corporate name, change of, by.12(2)
 -corporation dissolved by
 -cause, for.326(1) (a, b)
 -default in filing returns, for.326(2)
 -creation of corporation by.3(1)
 -existence of corporation
 -terminated by.328
 -cause, for.326(1) (b)
 -default in filing
 -returns, for.326(2) (b)
- . fraternal society,
 -incorporation of, by.188(1)
- . letters patent cancelled by
 -cause, for.326(1) (a)
 -default in filing
 -returns, for.326(2) (a)

Lieutenant Governor—Con.	SEC.
letters patent issued by, continuing corporation.....	323(1)
licence issued by.....	349; 350(1)
notice by, to corporation re forfeiture of powers.....	325(1)
powers of corporation declared forfeited by.....	325(1)
powers of corporation revived by.....	325(3)
powers of, re continuation of corporation.....	323(2)
Provincial Secretary to have powers of.....	351
society, incorporation of, by....	197(1)
supplementary letters patent cancelled by.....	326(1) (c)
supplementary letters patent issued by.....	4
. . . preference shares in series, re..	28(5)
supplementary letters patent re company issued by.....	33(1)
supplementary letters patent re corporation without share capital issued by.....	114(1)
surrender of charter accepted by.....	327(2)
terms of application varied by.....	8

Lieutenant Governor in Council	
co-operatives, change of name of, by.....	141
co-operative, removal of, from Part V by.....	141
distribution of property, confirmation of, by.....	97(2)
holding land by corporations, extension of time re.....	289(2)
increase of share capital of cash-mutual fire insurance corporation, assent to, by.....	156(1)
licence fees prescribed by.....	357
regulations by.....	335; 358
. . . exemption from licence, re.....	345
relief by, from compliance with Act.....	342
rules of procedure in winding up made by.....	284
winding up of insurer, approval of, by.....	227(2)

Life insurance companies	
application of ss. 83 to 91 to....	143(3)
application of ss. 175, 177, 178 to.....	147
authorized capital of.....	145(2)
. . . decrease of.....	146(2)
by-laws re decrease of capital of, confirmation of....	146(4)
conversion from joint stock to mutual.....	224a; Sched.
financial statement, etc., laid before annual meetings of.....	212(1)
surplus to policyholders.....	146(2)

Life insurance fund	SEC.
endowment fund, conversion of, into.....	238(3)

Life insurance policies	
purchase of, by insurers.....	208(5)

Limited	
unauthorized use of.....	14
use of, in corporate name.....	20(1); 21(1, 2)

Liquidator	
appearance of persons before, in winding up.....	275(1)
application by	
. . . direction of court re winding up, for.....	274
. . . dissolution of corporation, for.....	280(1)
. . . winding-up order, for.....	257(1)
deposit of money by, in bank.....	272(1)
disposition of undistributed property of corporation in winding up by.....	281
insurer, of	
. . . administration of deposit....	233(2)
. . . payment of claims by.....	235(1)
. . . production of books by.....	237(2)
. . . reinsurance arranged by....	231(1)
. . . sale of business by.....	228(4)
. . . transfer of deposit to.....	232(1)
money deemed due to.....	269(3)
negotiable instruments drawn, etc., by.....	269(2)
powers of	
. . . to bring or defend actions.....	269(1) (a)
. . . to carry on business.....	269(1) (b)
. . . to do all other things necessary.....	269(1) (h)
. . . to draw, etc., negotiable instruments.....	269(1) (e)
. . . to execute deeds, etc.....	269(1) (d)
. . . to raise money.....	269(1) (f)
. . . to sell property of corporation.....	269(1) (c)
. . . to take out letters of administration.....	269(1) (g)
proceedings by, in winding up, benefits from.....	276(3)
production of bank pass-book by	
. . . meetings of shareholders, at..	272(4)
. . . order of court, on.....	272(5)
voluntary winding up, in	
. . . acceptance of shares by, as consideration for sale of business.....	255(1)
. . . account of, when affairs wound up.....	279(1)
. . . appointment by corporation of.....	243(2)
. . . appointment by inspectors of.....	245
. . . approval of sale of business by.....	255(2)

- Liquidator—*Con.*** SEC.
- . voluntary winding up, in—*Con.*
 - . . compromise with contributories, debtors, etc., by.....254
 - . . compromise with creditors, etc., by.....253
 - . . list of contributions settled by.....251(a)
 - . . meetings of shareholders called by.....252
 - . . meetings of shareholders called by, when affairs wound up.....288(1)
 - . . payment from contributories demanded by.....252(1)
 - . . removal of.....247
 - . . remuneration of.....243(2)
 - . . vacancy in office of.....246
 - . winding up by court, in
 - . . appointment of.....259(1)
 - . . discharge of.....283(1)
 - . . removal of.....259(4)
 - . . remuneration of.....259(2)
 - . . vacancy in office of.....269(3)
 - . winding up, in
 - . . appointment of, on application of shareholder.....266(1)

- List of shareholders**
- . procurement of.....319(1)
 - . affidavit re.....319(1)

- Loan**
- . members of co-operative corporation, from.....127(1)
 - . . priority of, on distribution of property.....136(1)
 - . patronage return, of.....134(4)
 - . shareholders, to, liability for.....23(4)

- Loan and Trust Corporations Act**
- . corporations within meaning of
 - . . application of Part I to.....2
 - . . application of Part II to.....17
 - . . application of Part VII to.....242
 - . . application of Part VIII to.....285

- Loss**
- . claims for, on winding up of insurer, payment of....235(1) (b)
 - . defined.....225(c)
 - . payment of, from contingent fund of mutual insurance corporation.....164

- Manager**
- . mutual insurance corporation, of, may be director.....180

- Master**
- . reference to, on removal of proceedings into Supreme Court.....337(4)

- Meetings—*See also Annual meeting*** SEC.
- . delegates,
 - of.....113(1)(e, g); 137(1)(f, h)
 - . attendance of members
 - at.....113(5); 137(4)
 - . participation of members
 - at.....113(5); 137(4)
 - . directors, of
 - . . business of corporation at.....296(3)
 - . . minutes of.....312(1)
 - . . place of.....74
 - . directors of company, of, by-laws re.....67(1) (f)
 - . directors of corporation without share capital, of, by-laws re.....112(1) (i)
 - . directors of mutual insurance corporation, of
 - . . dissent recorded at.....184(2)
 - . . quorum at.....184(1)
 - . executive committee, of
 - . . minutes of.....312(1)
 - . . place of.....74(1, 2)
 - . fraternal society, of, organization.....189
 - . freeholders, of
 - . . advertisement calling.....151(2)
 - . . advertisement of, in newspaper.....151(2)
 - . . advertisement of, published in *Ontario Gazette*.....151(2)
 - . members, of
 - . . by-laws re.....112(1) (i)
 - . . called by directors.....307
 - . . called by members.....308(4, 5)
 - . . confirmation of by-laws at.....112(2)
 - . . election of directors at.....300(1)
 - . . expenses of.....308(6)
 - . . holding of, by order of court.....310
 - . . minutes of.....312(1)
 - . . production of bank pass-book at.....272(4)
 - . . quorum.....112(1) (i)
 - . . request for, by members.....308(1)
 - . . surrender of charter authorized at.....327(1) (a)
 - . . vacancies in board of directors, re.....301(3)
 - . members of co-operative, of, by-laws re.....137(1) (h)
 - . mutual corporation, of, re amalgamation.....149
 - . mutual insurance corporation, of
 - . . directors, power to call.....172(2)
 - . . notice of.....172(1)
 - . owners of agricultural property, of, to establish mutual weather insurance corporation.....153(1)
 - . owners of live stock, of, to establish live stock insurance corporation.....152(1)
 - . procedure at, by-laws re.....67(1) (f); 112(1) (i)
 - . shareholders, of
 - . . adjournment of.....79(1) (d)

Meetings— <i>Con.</i>	SEC.
shareholders, of— <i>Con.</i>	
amendment of by-laws at.....	67(3)
arrangement, re.....	95(2)
auditor at.....	82(5)
bearer of share warrant entitled to vote at.....	48(4)
by-laws re.....	67(1) (f)
called by directors.....	307
called by shareholders.....	308(4, 5)
chairman casting vote at.....	79(1) (c)
confirmation of by-laws at.....	67(2)
determination of questions at.....	79(1) (c)
election of directors at.....	300(1)
expenses of.....	308(6)
holding of, by order of court.....	310
minutes of.....	312(1)
motions at.....	79(1) (f)
notice of.....	79(1) (a)
place of.....	74
poll at, by-laws re.....	79(3)
president as chairman of.....	79(1) (e)
production of bank pass-book at.....	272(4)
quorum at, by-laws re.....	67(1) (f)
removal of directors at.....	65; 66
request for, by shareholders.....	308(1)
surrender of charter authorized at.....	327(1) (a)
unauthorized voting at.....	76(1, 3)
vacancies in board of directors, re.....	301(3)
society, of, first.....	198
subscribers, of, re proposed mutual fire insurance corporation.....	151(4, 6)
validity of proceedings at.....	312(3)

Members

aggrieved, application to court by.....	341
annual meetings of.....	306
application by.....	
audit of books, for.....	321(1)
court, to, for meeting of members.....	310
investigation of corporation, for.....	321(1)
rectification of books, etc., for.....	320(1)
winding-up order, for.....	257(1)
cash-mutual fire insurance corporation, of, priority of, on conversion of corporation.....	160(4)
chairman of board of directors to be.....	304
confirmation of by-laws by, in writing.....	311(3)
co-operative corporation, of	
auditor's report to.....	139(1) (d)
borrowing from.....	127(2)
by-laws delivered to.....	139(1) (b)
distribution of property among.....	136(2) (a, b)
division of, by-laws re.....	137(1) (a)

Members— <i>Con.</i>	SEC.
co-operative corporation, of— <i>Con.</i>	
financial statement to.....	139(1) (d)
loans from.....	127(1)
voting by.....	130
corporation without share capital, of	
division of, by-laws re.....	113(1)(a)
distribution of property among, in winding up.....	267(1) (a)
directors elected by.....	300(1)
directors to be.....	299(1, 2)
effect of resolution signed by.....	311(2)
fees of, by-laws re.....	112(1) (b)
inspection of books, etc., of corporation by.....	318(1)
interest of, transferability of.....	111
liability of.....	105
dissolution of corporation, on.....	329(1)
relief from, when number reduced.....	322(2)
when number reduced.....	322(1)
list of, procurement of.....	319(1)
meetings of	
by-laws re.....	112(1) (i)
called by directors.....	307
election of directors at.....	300(1)
minutes of.....	312(1)
request for.....	308(1)
mutual insurance corporation, of.....	169(1)
annual statement to.....	172(3)
notice of, to.....	172(1)
voting powers of.....	173
number of.....	106
officers need not be.....	304
original.....	104
president to be.....	304
proceedings by, in winding up.....	276(1)
benefit from.....	276(2)
powers of	
to call meeting.....	308(4, 5)
to requisition meeting.....	308(1)
register of.....	313 ¶3
remuneration of, right to.....	109(2)
service of notice upon, by corporation.....	332
society, of	
by-laws re.....	201(1)
interest in fund of.....	205
voting powers of.....	108

Membership

admission to.....	107
by-laws re.....	112(1) (a)
classes of.....	103
conditions of, by-laws re.....	112(1) (a)
co-operative corporation, of	
termination of.....	128
transfer of.....	129(2)
issue of cards of, by-laws re.....	112(1) (c)
suspension of, by-laws re.....	112(1) (d)
termination of, by-laws re.....	112(1) (d)
transfer of, by-laws re.....	112(1) (e)

- Mentally incompetent person** SEC.
 . liability of committee for,
 re shares.....56(3)
 . liability of, re shares.....56(2)
- Mining companies—See also Companies**
 . application of Part IV to.....118
 . dividends re.....61(5)
 . shares of.....119(1)
 . shares issued at discount by.....120
 . words to be used on
 share certificates of.....122
- Minister**
 . appointment of provisional
 liquidator by.....228(1)
 . defined.....225(d)
- Minutes**
 . books of.....312(1)
 . evidence of proceedings, as.....312(2)
 . meetings of executive
 committee, of.....312(1)
 . meetings of members, of.....312(1)
 . meetings of mutual insurance
 corporation, of, re
 retirement of directors.....178
 . meetings of shareholders, of.....312(1)
 . . entry re motion in.....79(1) (f)
 . mention of production of
 pass-book in.....272(4)
- Money**
 . borrowing powers of
 company, re.....58(1) (a)
 . borrowing powers of
 co-operative re.....127(2)
 . deemed due to liquidator.....269(3)
 . power of company to secure.....58(1) (c)
 . power of liquidator to raise.....269(1) (f)
- Money received on account of shares**
 . application of.....145(5)
 . defined.....145(1)
 . use of, limited.....145(7)
- Mortgage**
 . securities secured by,
 filing of.....60(1)
 . power of company to.....58(1) (c)
 . purchase of,
 by insurer.....208(2) (l, m)
- Mortgagee**
 . defined.....57(1)
 . liability for shares
 in name of.....57(2)
 . power to vote of.....77
- Mortgagor**
 . liability of, re shares.....57(2)
 . power to vote of.....77
- Municipal debentures**
 . purchase of,
 by insurer.....208(2) (b)
- Mutual benefit societies** SEC.
 . incorporation of.....194(1)
 . name of.....194(2)
- Mutual corporations**
 . amalgamation of,
 agreements for.....149(1)
 . incorporation of.....150(1)
- Mutual fire insurance corporations**
 . adoption of name of.....151(7)
 . incorporation of.....151
 . . application for.....151(10)
 . powers of, limited.....151(13)
- Mutual insurance corporations**
 . amalgamation of.....186
 . application of ss. 168 to 183 to.....168
 . guarantee capital stock of
 . amount of.....162(1)
 . distribution of.....167
 . division of, into shares.....162(2)
 . retirement of.....166
 . incorporation of,
 purposes of.....150(2)
 . members of.....169(1)
 . . liability of.....169(2)
 . . withdrawal of.....169(3)
 . reserve fund of
 . applications of
 provisions re.....187(6)
 . . formation of.....187(1)
 . . income from.....187(3)
 . . investment of.....187(2)
 . . reduction of.....187(5)
 . . use of.....187(4)
 . voting powers of members of.....173
- Mutual livestock corporations**
 . application of ss. 168 to 183 to.....168
 . incorporation of.....151
 . meetings called to establish.....152(1)
 . organization of.....152(2)
 . powers of, limited.....152(3)
- Mutual weather insurance corporations**
 . application of ss. 168 to 183 to.....168
 . incorporation of.....153
 . meetings called to establish.....153(1)
 . organization of.....153(2)
 . powers of, limited.....153(3)
- Name—See Corporate name**
- National Housing Acts**
 . loans by insurers under.....208(6)
- Negotiable instruments**
 . effect of, drawn, etc.,
 by liquidator.....269(2)
 . power of company re.....22(1) (l)
 . power of liquidator to
 draw, etc.....269(1) (e)

Newspaper	SEC.
· advertisement of freeholders' meetings in.....	151(2)
· advertisement of subscribers' meetings in.....	151(5)
· notice in, re meetings of mutual insurance corporation.....	172(1)
· notice of annual meetings of joint stock insurance company in.....	224(5)
· notice of closing of register of transfers in.....	42(5)
· notice of intention to surrender charter published in.....	326(1) (e)
· notice of voluntary winding up of insurer in.....	230(3)
· notice re conversion of cash-mutual fire insurance corporation in.....	160(3)

Notices

· application for incorporation of society, of.....	197(3)
· application for increase of share capital of cash-mutual fire insurance corporation, of.....	156(2)
· application for winding-up order, of.....	257(2)
· application, of, re conversion of cash-mutual fire insurance corporation.....	160(3)
· auditor, appointment, of.....	80(7)
· calls on shares, re.....	53(1)
· change of name, of.....	12(2)
· closing of register of transfers, of.....	42(5)
· company, re	
· meetings of directors, of.....	67(1) (f)
· meetings of shareholders, of.....	67(1) (f)
· corporation without share capital, re	
· distribution of property, of.....	115(3)
· meetings of directors, of.....	112(1) (i)
· meetings of members, of.....	112(1) (i)
· default in filing annual returns, of	
· directors, to.....	326(2)
· publication of.....	326(2)
· director appointed as auditor, of.....	81(3)
· dissenters to arrangement, to.....	95(5)
· dissenting shareholders of private company, by.....	99(1)
· forms of, regulations re.....	358(d)
· guarantee capital stock, retirement of, re.....	166(3)
· incorporation of joint stock insurance company, re.....	144(2, 3)
· intention to surrender charter, of, publication of.....	327(1) (e)
· issue of letters patent, of.....	10
· issue of licence, of.....	352
· Lieutenant Governor to corporation re forfeiture of powers, by.....	325(1)

Notices—Con.	SEC.
· meetings of shareholders called by liquidator, of, filing of.....	279(2)
· meetings of shareholders, of.....	79(1) (a)
· by-laws re.....	79(2)
· contents of.....	307
· arrangement, re.....	95(2, 3)
· time re deposit of proxy in.....	75(5)
· to auditor.....	82(5)
· waiver of.....	79(1) (a)
· members, to, re application for supplementary letters patent.....	114(3)
· owner, to, re registration of transfer of shares.....	50(1)
· partnership name, of.....	16
· patronage return, investment of, re.....	134(2)
· Provincial Secretary to corporation re increase in number of shareholders, by.....	313(3)
· purchase of shares for redemption, of.....	135(4)
· reference to court, of, re change of name.....	12(3)
· removal of directors, re.....	65; 66
· removal of proceedings into Supreme Court, re.....	337(1)
· resolution, of, to shareholders.....	309
· expenses re.....	309(4) (b), (8)
· service of.....	309(2, 3)
· resolution re voluntary winding up, of, to be filed and published.....	244(1)
· service of, upon shareholder	
· manner of.....	332(1)
· time of.....	332(2)
· shareholders, to, re application for supplementary letters patent.....	33(3, 4)
· special resolution, re	
· change in number of directors.....	298(2)
· change of head office.....	290(3)
· subscribers, to, re proposed mutual fire insurance corporation.....	151(5, 6)
· suspension, etc., of licence, of.....	354(2)
· voluntary winding up of insurer, re.....	230(2, 3)

Oath

· evidence taken by Provincial Secretary under.....	7
-----------------------------------------------------	---

Objects

· change of, of continued corporation.....	323(2)
· company, of, variation by supplementary letters patent.....	33(1) (a)
· corporation, of.....	3(1)
· regulations re.....	335(b)

Objects—<i>Con.</i>	SEC.
. corporation without share capital, of, variation by supplementary letters patent.....	114(1) (a)

Offences—*See* Penalties**Officers**

. acts of, validity of.....	305
. appearance of, before court or liquidator.....	275(1)
. appointment of.....	302(2)
. defect in.....	304
. auditor, as, appointment of.....	81(1, 2)
. notice of.....	81(3)
. company, of, by-laws re.....	67(1) (e)
. corporation without share capital, of, by-laws re.....	112(1) (h)
. defined.....	1(e)
. director, need not be.....	304
. examination into misapplication of funds by, in winding up.....	275(2)
. examination of, by inspector.....	321(8)
. insurance corporation, of, security of.....	185
. liability of, for loans to shareholders.....	23(4)
. mutual insurance corporation, of, eligibility as director.....	181(1)
. performance of duty of, ordered by court.....	341
. qualification of.....	304
. defect in.....	305
. shareholder, need not be.....	304
. society, of, by-laws re.....	201(1)

Ontario contract

. defined.....	225(e)
. termination of	
. date of.....	233(1)
. date of, fixed by receiver.....	233(3)
. date of, fixed in another province.....	233(2)
. notice of.....	234

Ontario Gazette

. advertisement of freeholders' meetings in.....	151(2)
. notice in	
. application for incorporation of fraternal society, of.....	188(2)
. application for incorporation of society, of.....	197(3)
. application for increase in share capital, of.....	156(2)
. conversion of cash-mutual fire insurance corporation, of.....	160(3)
. default in filing annual return, of.....	326(2)
. distribution of property, of.....	115(3)

Ontario Gazette—<i>Con.</i>	SEC.
. notice in— <i>Con.</i>	
. incorporation of joint stock insurance company, of.....	144(2)
. intention to surrender charter, of.....	327(1) (e)
. issue of letters patent, of.....	10
. issue of licence, of.....	352
. resolution re voluntary winding up, of.....	244(1)
. retirement of guarantee capital stock, of.....	157(3)
. suspension, etc., of licence, of.....	354(2)
. termination of Ontario contracts, of.....	234(a)
. voluntary winding up of insurer, of.....	230(3)
. special resolution published in	
. change in number of directors, re.....	298(2)
. change of head office, re.....	290(3)

Order in Council

. amalgamation agreement, approval of, re mutual insurance corporation.....	186
. approval of agreement of amalgamation by.....	148

Orders

. application for, regulations re.....	335(b)
. court, by, re change of name.....	12(3)
. filing of copy of.....	12(4)
. defects in form not to invalidate.....	9
. issue of, before payment of fees.....	336
. notice of, given by Provincial Secretary.....	10

Organization

. power of company to pay costs of.....	22(1) (s)
-----------------------------------------	-----------

Parent corporation

. by-laws re.....	201(1)
. contribution of, to funds of society.....	204
. defined.....	196(a)

Partnership

. notice to Provincial Secretary of name of.....	16
. power of company to enter into.....	22(1) (d)

Pass-book

. production of, by liquidator.....	272(4, 5)
-------------------------------------	-----------

Patents

. power of company to acquire.....	22(1) (c)
------------------------------------	-----------

Patronage return	SEC.
. compulsory loan of.....	134(4)
. defined.....	133(3)
. deduction from, for educational purposes.....	140(2)
. distribution of property on basis of.....	136(2) (b)
. investment of.....	134(1)
. . . notice of.....	134(2)
. . . limitation of.....	133(4)
. priority of, on distribution of property.....	136(1)
. purchase of shares out of.....	134(3, 5)
. shareholder entitled to.....	134(7)

Penalties

. carrying on business without licence.....	355
. contravention of Act.....	340
. contravention of by-law re unauthorized voting.....	76(3)
. contravention of letters patent, etc., by private company.....	98(3)
. failure by liquidator to file notice of meeting of shareholders.....	279(6)
. failure of co-operative to file and deliver financial statement, etc.....	139(3)
. failure of director to declare interest in contract with company.....	70(6)
. failure of director to file returns of dealings.....	71(4)
. failure of insurer to deliver copy of by-laws to Superintendent.....	222
. failure of insurer to deliver copy of statements to Superintendent.....	222
. failure to comply with requisition for notice of resolution to shareholders....	309(9)
. failure to file and publish by-laws re distribution of property.....	115(4)
. failure to file and publish notice of voluntary winding up.....	244(2)
. failure to file and publish special resolution . . . change in number of directors, re.....	298(3)
. . . change of head office, re.....	290(4)
. failure to file court order deferring dissolution date of corporation.....	279(6)
. failure to file court order dissolving corporation.....	280(3)
. failure to file court order re change of name.....	12(5)
. failure to furnish financial statements.....	93(3)
. failure to mail financial statements.....	93(3)

Penalties—Con.	SEC.
. failure to use "Limited" in corporate name.....	21(4)
. refusal of liquidator to furnish information on winding up of insurer....	237(3)
. refusal to answer questions of inspector.....	321(9)
. refusal to permit inspection of books, etc.....	318(2)
. refusal to produce books for examination of inspector.....	321(9)
. removal of books and accounts from head office.....	317(4)
. sale or purchase of list of shareholders.....	319(4)
. unauthorized use of list of shareholders.....	319(2)
. unauthorized use of word "Limited", etc., in name.....	14
. untrue entries in books, etc., of corporation.....	316
. untrue statements in documents.....	339(1)
. . . limitation of action.....	339(2)
. use of word "co-operative".....	125(4)

Pension fund societies—See Societies**Pensions**

. funds of societies, out of.....	200(2)
. power of company to grant....	22(1) (g)

Personal property

. forfeiture of, on dissolution of corporation.....	330
. power of company to acquire.....	22(1) (i)

Policyholders

. joint stock insurance company, of, election of directors by.....	224(1)
. mutual insurance corporation, of, vote of, re retirement of guarantee capital stock....	166(2)
. notice of termination of Ontario contracts to.....	234(b)
. participating, of joint stock insurance company . . . election of, as director.....	224(4)
. . . rights of, to vote.....	224(3)

Poll

. manner of taking.....	79(3)
-------------------------	-------

Power of attorney

. corporation, by.....	294
. forms of, regulations re.....	358(d)
. power of transfer, re, not revoked on death.....	49(3)

Powers

. incidental, of companies.....	22(1)
. investment, of insurers.....	208(2)

Preference shares	SEC.
. contents of share	
certificates re.....	45(1) (c), (2)
. conversion of.....	27(12)
issued capital unchanged.....	27(13)
. division into.....	26
. in series.....	28
dividends on.....	28(3)
. issue of supplementary	
letters patent re.....	28(4, 5)
repayment of capital on.....	28(3)
voting rights of.....	28(2)
. issue of, at discount.....	120(2)
. mining company, of.....	120(2)
. nature of conditions	
attaching to.....	27(2)
. nature of preference	
attaching to.....	27(1)
. purchase for cancellation of	
decrease of authorized	
capital by.....	27(13)
decrease of issued	
capital by.....	27(13)
insolvent company, of.....	27(12)
premium on.....	27(11)
shares without par value.....	27(4)
. purchase of, by insurer.....	208(2) (k)
. redemption of.....	27(3)
at actual value.....	27(6)
decrease of authorized	
capital by.....	27(13)
decrease of issued	
capital by.....	27(13)
insolvent company, of.....	27(12)
partial.....	27(10)
premium on.....	27(5)
shares without par value.....	27(4)

Premium note plan

. insurance by mutual fire	
insurance	
corporation on.....	150(2); 151(13)
. insurance by mutual live	
stock insurance	
corporation on.....	152(3)
. insurance by mutual weather	
insurance corporation on.....	153(3)

Premiums

. refunds of unearned, on	
winding up of insurer.....	235(2)
calculation of claims for.....	235(3)
effect of.....	235(4)

Prepaid Hospital and Medical Services Act

. corporation registered under,	
filing of financial statement	
of.....	139(2)

President

. chairman of meetings of	
shareholders, as.....	79(1) (e)
. director, to be.....	304
. election of, by directors.....	302(1)
. mutual fire insurance	
corporation, of, election of...	151(9)

President—Con.**SEC.**

. mutual insurance	
corporation, of, election of...	182(4)
. payment of, by-laws re.....	68
. qualification of.....	304
. shareholder, to be.....	304

Principal

. power of company as.....	22(1) (u)
----------------------------	-----------

Private companies

. auditor of, appointment of.....	81(2)
. contents of share	
certificates re.....	45(1) (d)
. contravention of letters	
patent, etc., by.....	98
effect of.....	98(1)
relief from.....	98(2)
. conversion into public	
company by	
supplementary letters	
patent.....	33(1) (l)
. conversion of public company	
into, by supplementary	
letters patent.....	33(1) (o)
defined.....	1(f)
. dissenting shareholders,	
rights of	
on amalgamation	
of company.....	99(1) (c)
on conversion	
of company.....	99(1) (b)
on sale of undertaking.....	99(1) (a)
. incorporation of.....	3(2)
. objects of, limitation.....	3(2)
. power to act as liquidator	
or trustee.....	3(2)
. power to lend and invest money.....	3(2)
. seal of.....	21(3)
. securities of, issue by.....	3(2)
. shareholders of, limitation.....	3(2)

Proceedings

. corporation, against, on	
surrender of charter.....	327(1) (d)
. meetings, at	
evidence of.....	312(2)
validity of.....	312(3)
. removal from county court	
to Supreme Court of.....	337
. winding up, stay of.....	278

Production

. bank pass-book by	
liquidator, of.....	272(4, 5)

Prohibition

. carrying on business	
without licence, re.....	346(1)
exception.....	346(2)

Promissory notes—See Negotiable instruments**Proof—See also Evidence**

. certificate, by.....	333
. claims, of, in winding up.....	273
. compliance with Part IX,	
of, on application for licence.....	347(2)

Property	SEC.
distribution of	
company, of.....	97(1)
co-operative corporation, of.....	136
corporation without share capital, of.....	115
liquidator in winding up, by.....	267(1) (a)
surrender of charter, on.....	307(1) (b)
power of company to deal with.....	22(1) (n)
power of company to distribute.....	22(1) (r)
sale of, in winding up, shares accepted as consideration for.....	255(1)
approval of.....	255(2)

Provincial Secretary

ascertainment of proceedings re incorporation of mutual fire insurance corporation.....	151(12)
auditor, appointment of, by.....	80(6)
auditor's report of co-operative to.....	139(1) (c)
by-laws of co-operative filed with.....	139(1) (a)
by-laws of society filed with.....	198
certification of copy of licence by, as evidence.....	352
court order deferring date of <i>ipso facto</i> dissolution of corporation filed with.....	279(5)
court order dissolving corporation filed with.....	280(2)
court order re change of name filed with.....	12(4)
director's protest re liability to.....	51(3); 61(4)
documents to, on incorporation of mutual fire insurance corporation.....	151(10, 11)
evidence re creation of preference shares in series filed with.....	28(5)
evidence required by, on application for decrease of capital.....	34
evidence under oath taken by.....	7
expense of special audit re society approved by.....	206(4)
financial statement of co-operative to.....	139(1) (c)
mortgage to secure security to be filed with.....	60(1)
notice of issue of letters patent to be given by.....	10
notice of issue of licence to be given by.....	352
notice of suspension, etc., of licence to be given by.....	354(2)
notice to	
application to court re change of name, re.....	12(3)

Provincial Secretary—Con.	SEC.
notice to—Con.	
by-law re distribution of property, of.....	115(3)
meeting of shareholders called by liquidator, of.....	279(2)
resolution re voluntary winding up, of.....	244(1)
notice to corporation re increase in number of shareholders by.....	322(3)
partnership name to be recorded by.....	16
powers of.....	5; 351
proof of compliance with Part IX to.....	347(2)
publication of notice of incorporation of joint stock insurance company required by.....	144(2)
relief by, from provisions re removal of books and accounts.....	317(3)
requisition for special audit re society to.....	206(1)
reservation of corporate name by.....	15
resolution re distribution of endowment fund of fraternal society filed with.....	238(2)
returns from society required by.....	207
special resolution filed with	
change of head office re.....	290(3)
change in number of directors re.....	298(2)
statement of land of corporation to.....	289(3)

Provisional liquidator

insurer, of	
administration of deposit by.....	232(2)
appointment of.....	228(1)
payment of costs of.....	229(2)
petition by, to court for winding-up order.....	228(3)
powers of.....	228(2)
reinsurance arranged by.....	231(1)
remuneration of.....	229(1)
sale of business by.....	228(4)

Proxy

appointment of.....	75(1)
co-operative corporation, re.....	130(1)
delegates, voting by.....	137(2)
deposit of, by-laws re.....	75(5)
instrument appointing	
contents of.....	75(3)
execution of.....	75(2)
expiration of.....	75(2)
revocation of.....	75(4)
powers of.....	75(1)
requirements for, by-laws re.....	67(1) (f); 112(1) (i)

Public authority

power of company to enter into arrangement with.....	22(1) (f)
------------------------------------------------------	-----------

- Public companies** SEC.
- . conversion into private company by supplementary letters patent.....33(1) (o)
 - . conversion of private company into, by supplementary letters patent.....33(1) (l)
 - . defined.....1(o)
 - . financial statement, mailing of, by.....93(1)
 - . share warrant issued by.....48(1)

- Public Hospitals Act**
- . corporations operating under, directors of.....299(3)

- Public Trustee**
- . disposition of undistributed property of corporation in winding up to.....281
 - . disposition of undistributed property of corporation on surrender of charter to....327(3, 4)
 - . property held in trust by
 - . . conversion into money of...327(5)
 - . . person entitled to.....327(6)
 - . . vesting of.....327(6)

- Qualification**
- . auditor, of.....81(1)
 - . chairman of board of directors, of.....304
 - . delegates, of.....137(3)
 - . directors, of.....299
 - . directors of company, of...67(1) (c)
 - . director of co-operative, of.....131
 - . directors of corporation without share capital, of...112(1) (f)
 - . directors of joint stock insurance company, of.....223
 - . directors of mutual insurance corporation, of.....175
 - . officers, of.....304
 - . president, of.....304

- Quorum**
- . board of directors, of.....301(1)
 - . . transaction of business, re...296(3)
 - . executive committee, of...69(3)
 - . meeting of directors of mutual insurance corporations, at.....184(1)
 - . meetings of members at, by-laws re.....112(1) (i)
 - . meeting of shareholders at, by-laws re.....67(1) (f)

- Railway companies**
- . application of Part I to.....2
 - . application of Part II to.....17
 - . application of Part III to.....100
 - . application of Part VII to.....242
 - . application of Part VIII to.....285

- Real estate—See also Land**
- . purchase of, by insurer...207(2) (n-q); 208(4)
 - . . limitation on.....208(8)

- Real property—See Land** SEC.

- Receiver**
- . appointment of, on forfeiture of charter of insurer.....208(1)
 - . termination of Ontario contracts, date of, fixed by...233(3)
 - . transfer of deposit from, to liquidator.....232(1)

- Reciprocal deposit**
- . defined.....225(f)

- Reciprocating province**
- . defined.....225(g)

- Reconstruction**
- . arrangement includes.....95(1)

- Records—See Accounts; Books and records**

- Rectification**
- . books, etc., of corporation, of...320(1)

- Register—See also Books and records; Branch register; Documents**
- . corporation, of.....313
 - . . inspection of.....318(1)
 - . defined.....1(h)
 - . directors, of.....313 ¶4
 - . loose-leaf.....1(h)
 - . members, of.....313 ¶3
 - . rectification of, application for.....320(1)
 - . shareholders, of.....313 ¶3
 - . . where kept.....42(1)
 - . . to be kept at head office.....317(1)
 - . . exception.....317(3)
 - . transfers, of.....40
 - . . closing of.....42(5)
 - . . effect of registration in...42(2)
 - . . registration in.....42(4)
 - . . where kept.....42(1)

- Regulations**
- . defined.....343(b)
 - . Lieutenant Governor in Council, by.....335; 358

- Reinsurance**
- . failure of liquidator to secure...233(1)
 - . winding up of insurer, on
 - . . approval of court re.....231(6)
 - . . deposit, use of, for.....231(3)
 - . . funds available for.....231(2)
 - . . part of contracts, of.....231(5)

- Remuneration**
- . agents of company, of.....67(1) (e)
 - . agents of corporation without share capital, of.....112(1) (h)
 - . auditor, of.....80(5, 6)
 - . directors, of, by-laws re.....68
 - . directors of company, of, by-laws re.....67(1) (c)

Remuneration—Con.	SEC.	Reserve fund—Con.	SEC.
<ul style="list-style-type: none"> directors of corporation without share capital, of...110(2) by-laws re...112(1) (f) directors of mutual insurance corporation, of...177 liquidator, of <ul style="list-style-type: none"> priority of...268 voluntary winding up, in...241(2) winding up by court, in...259(2) members, of...110(2) officers of company, of...67(1) (e) officers of corporation without share capital, of...112(1) (h) president, of, by-laws re...68 provisional liquidator, of, re winding up of insurer...229(1) 		<ul style="list-style-type: none"> mutual insurance corporation, of—Con. <ul style="list-style-type: none"> formation of...187(1) income from...187(3) investment of...187(2) reduction of...187(5) use of...187(4) use of, for purchase of shares for redemption...135(2) (a) 	
Reports		Reserves	
<ul style="list-style-type: none"> auditor, of...82(2) financial statement, re...92 inspection of, by shareholder...83(3); 212(4) mailing of, to shareholders...93(1) shareholders in private company entitled to...93(2) to be laid before annual meeting...83(1) (b); 212(1) (b) to be read at annual meeting...83(3); 212(4) auditor of cash-mutual insurance corporation, of...219 auditor of co-operative, of...139(1) (c) sent to member...139(1) (d) auditor of joint stock insurance company, of...219 inspector, of...321(4, 6) evidence, as...321(10) 		<ul style="list-style-type: none"> financial statement, in, defined...91; 218 financial statement of life insurance company, in, defined...218 	
Representative		Resolution	
<ul style="list-style-type: none"> extra-provincial corporation, of, regulations re...358(b) 		<ul style="list-style-type: none"> confirmation of, in writing...311(1, 2) proof of...311(4) corporation, of, re investigation of affairs...321(5) disposal of books, etc., of corporation directed by...282(1) distribution of endowment fund of fraternal society, re 238(1) assent of Superintendent to...238(2) filed with Provincial Secretary...238(2) effect of, signed by directors...311(1) effect of, signed by shareholders...311(2) notice to shareholders of, request for...309(1) (a) number of directors of mutual insurance corporation determined by...176(1) removal of directors by...65; 66 shares at discount authorized by...120(3) voluntary winding up of corporation, re...243(1) filing and publication of...244(1) voluntary winding up of insurer, re, notice of...230(2) 	
Requisition		Returns	
<ul style="list-style-type: none"> circulation of statement to shareholders, for...309(1) (b) deposit of...309(4) (a) (ii) expenses of...309(4) (b), (8) director, of, re filing return of dealings...71(1) filing of...71(2) meeting of shareholders, for...308(1) deposit of...308(2) duty of directors upon deposit of...308(3) nature and contents of...308(2) notice of resolution to shareholders, for...309(1) (a) deposit of...309(4) (a) (i) expenses of...309(4) (b), (8) special audit re society, for...206(1) 		<ul style="list-style-type: none"> directors, of, re dealings...71(1) filing of...71(3) forms of, regulations re...358(d) society, of...207 tariff of fees on...335(a) 	
Reserve fund		Rotation	
<ul style="list-style-type: none"> co-operative corporation, of...132(a) mutual insurance corporation, of application of provisions re...187(6) 		<ul style="list-style-type: none"> election of directors in...300(5, 6) 	
		Rules of procedure	
		<ul style="list-style-type: none"> winding up, in, made by Lieutenant Governor in Council...284 	
		Seal	
		<ul style="list-style-type: none"> attorney of corporation empowered by writing under...293 contracts of corporations under...292(1) corporation, of...291 private company, of...21(3) 	

Secretary	SEC.
appointment of, by directors.....	302(2)
assistant.....	302(3)
office of, vacancy in.....	302(3)
Security	
agents and officers of company, of.....	67(1) (e)
agents and officers of corporation without share capital, of.....	112(1) (h)
Securities	
additional, re investments of insurers.....	208(13)
by-laws re power to invest in.....	208(14)
condition re redemption in.....	59
defined.....	1(i)
filing of mortgage to secure.....	60(1)
power of company to issue.....	58(1) (b)
power of company to secure.....	58(1) (c)
power of private company to issue.....	3(2)
Securities Act	
broker, etc., within meaning of, voting by.....	76(1)
Series	
preference shares in.....	28
Servants	
company, of, by-laws re.....	67(1) (e)
corporation without share capital, of, by-laws re.....	112(1) (h)
Set-off	
shareholder's defence of.....	55(4)
Share capital	
cash-mutual fire insurance corporation, of increase of.....	156(1)
subscribers of.....	157
co-operative company, of, division of.....	126(1)
Share certificates	
contents of.....	45
co-operative corporation, of, contents of.....	126(2)
evidence of title.....	43(2)
fee for issue of.....	43(3)
issue of, by-laws re.....	67(1) (a)
loss or destruction of.....	44
mining company, of.....	122
shareholder entitled to.....	43(1)
signing of.....	46
surrender of, on redemption.....	135(4)
notice of.....	135(4)
Shareholders	
aggrieved, application to court by.....	341
amalgamation agreement, adoption of, by.....	96(3)

Shareholders—Con.	SEC.
annual meetings of.....	306
application by audit of books, for.....	321(1)
court, to, for meeting of shareholders.....	310
investigation of corporation, for.....	321(1)
rectification of books, etc., for.....	320(1)
winding-up order, for.....	257(1)
auditor, appointment of, by.....	80(1, 2)
auditor, removal of, by.....	80(4)
auditor, remuneration of, fixed by.....	80(5)
arrangement with.....	95
arrear on call, in, re voting.....	79(1) (b)
bearer of share warrant deemed to be.....	48(4)
cash-mutual insurance corporation, of, right to vote of.....	165
caveat, by, against registration of transfer of shares.....	50(2)
chairman of board of directors to be.....	304
confirmation of by-laws by, in writing.....	311(3)
co-operative corporation, of auditor's report to.....	139(1) (d)
borrowing from.....	127(2)
by-laws delivered to.....	139(1) (b)
distribution of property among.....	136(2) (a, b)
financial statement to.....	139(1) (d)
voting by.....	130
directors elected by.....	300(1)
directors removed by resolution of.....	65; 66
directors to be.....	299(1, 2)
dissenting, of private company.....	99
distribution of property among, in winding up.....	267(1) (a)
distribution of property, confirmation of, by.....	97(2)
effect of resolution signed by.....	311(2)
election of directors, voting at, by.....	64(1)
entitled to share certificate.....	43(1)
inspection of books, etc., of corporation by.....	318(1)
joint stock insurance company, of, election of directors by.....	224(1)
liability of action of creditor re.....	55(2)
decrease of issued capital, on.....	36(1)
defence to action by creditor re.....	55(4)
dissolution of corporation, on.....	329(1)
forfeited shares, on.....	53(6)
interest, for, re unpaid calls.....	53(3)

Shareholders— <i>Con.</i>	SEC.
. liability of— <i>Con.</i>	
. . . limitation of, on decrease of issued capital.....	36(2)
. . . limited.....	55(1)
. . . mortgagee when registered as.....	57(2)
. . . mortgagor, when.....	57(2)
. . . reduction of, re stock dividends.....	62
. . . relief from, when number reduced.....	322(2)
. . . shares of mining company, for.....	121
. . . trustee, when not registered as.....	56(3)
. . . trustee, when registered as.....	56(1)
. . . when number reduced.....	322(1)
. life insurance companies, of, liability of, on partially paid-in shares.....	146(3)
. list of, procurement of.....	319(1)
. loans to.....	23(1, 2)
. meetings of	
. . . by-laws re.....	67(1) (f)
. . . called by directors.....	307
. . . election of directors at.....	300(1)
. . . minutes of.....	312(1)
. . . place of.....	74
. . . request for.....	308(1)
. . . unauthorized voting at.....	76(1, 3)
. mutual insurance corporation, of, right to vote of.....	165
. officers need not be.....	304
. original.....	19
. powers of	
. . . to call meeting.....	308(4, 5)
. . . to requisition meeting.....	308(1)
. proceedings by, in	
. . . winding up.....	276(1)
. . . benefits from.....	276(2)
. president to be.....	304
. private company, of.....	3(2)
. proxy, power to appoint.....	75(1)
. refund of excess on sale of forfeited shares of.....	53(7)
. register of.....	313 ¶3
. . . where kept.....	42(1)
. registration of transfer of fully-paid shares of indebted.....	39(3)
. removal of name of, from books on issue of share warrant.....	48(2)
. right of, to inspect auditor's report.....	83(3); 212(4)
. service of notice upon, by corporation.....	332
. subscribers re cash-mutual fire insurance corporation become.....	157
. transmission of shares of deceased.....	52
. unknown, disposition of property of.....	281(1); 327(3)
. variation of rights of preference.....	33(4, 4a, 5); 95
. voting rights of.....	29(1)

Shares— <i>See also Common shares;</i>	SEC.
. Preference shares	
. allotment of.....	31
. . . by-laws re.....	67(1) (a)
. by-laws not to restrict right to transfer of fully-paid.....	39(2)
. changing, by supplementary letters patent.....	33(1) (g-i)
. collateral security, given as.....	57(2)
. commission on subscription for.....	32
. consolidation of, by arrangement.....	95(1)
. co-operative corporation, of	
. . . purchase for redemption of.....	134
. . . transfer of.....	129(1)
. deemed personal estate.....	38
. dissenting shareholder, of, purchase of, by private company.....	99(2, 3)
. . . price of.....	99(4)
. . . resale of.....	99(5)
. equality of, in class.....	25
. forfeiture of, by-laws re.....	67(1, 4)
. forfeiture for unpaid calls on.....	53(4)
. . . sale of.....	53(5)
. fractions of	
. . . fractional certificate for.....	37(1)
. . . purchase of.....	37(3)
. insurance corporation, of	
. . . division of capital into.....	145(4)
. . . subscription for, limit of use of.....	145(7)
. . . subscription for, return of.....	145(6)
. issue of.....	31
. . . by-laws re.....	67(1) (a)
. . . discount, at.....	120(1)
. joint holders of, powers re voting.....	78
. liability of mortgagee re.....	57(2)
. liability of mortgagor re.....	57(2)
. liability of trustee re.....	56(1, 3)
. life insurance company, of, new par value declared.....	146(3)
. mining company, of.....	119(1)
. power of company to acquire.....	22(1) (e)
. power of company to allot and issue, for property.....	22(1) (g)
. reclassification of, by arrangement.....	95(1)
. registration of transfer of fully-paid, of indebted shareholder.....	39(3)
. resolution authorizing issue of, at discount.....	120(3)
. returns of directors re dealings in.....	71(1)
. stock dividends, issue for.....	62
. transfer of.....	39(1)
. . . authorization by trustee re.....	47(4)
. . . by-laws re.....	67(1) (a)
. . . register of.....	40
. valid only after registration.....	49(1)
. transmission of.....	52

Shares—<i>Con.</i>	SEC.
without par value	
allotment and issue of.....	31(3, 4)
consideration for.....	24(4); 31(3, 4)
division of authorized capital into.....	24(1)
with par value	
allotment and issue of.....	31(2)
consideration for.....	31(2)
division of authorized capital into.....	24(1)
mining company, of.....	119(1)

Share warrant

bearer of, deemed shareholder.....	48(4)
defined.....	48(6)
entry in company's books re.....	48(2)
issue by public company of.....	48(1)
shares transferable by delivery of.....	48(3)
surrender of.....	48(7, 8)
voting rights of bearer of.....	48(5)

Social clubs

cause for cancellation.....	325a
minimum number of applicants.....	3(1a)

Social organizations

change of location of premises by.....	298a
----------------------------------------	------

Societies

application of ss. 195 to 206 to.....	195
by-laws of	
general powers to pass.....	201
sanction of.....	201(3)
defined.....	196(b)
fund of, administration of.....	200(2)
incorporation of.....	197
members of, interest in fund of.....	205
objects of.....	200(2)
revenue of.....	203
special audit of accounts of.....	206

Special resolution

chairman of board of directors, re.....	303
corporation, of.....	313 ¶2
defined.....	1(j)
directors, change in number of, authorized by.....	298(1)
notice of.....	298(2)
head office, change of, authorized by.....	290(2)
notice of.....	290(3)
quorum of board of directors, provision re, in.....	301(1)
sale of undertaking of company authorized by.....	22(1) (m)

Statement

annual, mutual insurance corporation, of.....	170(2)
circulation of, to shareholders.....	309
expenses re.....	309(4) (b), (8)
manner of.....	309(2, 3)
circulation to shareholders, request for.....	309(1) (b)
financial	
approval of.....	92
balance sheet in.....	83(1) (a) (iii); 212(1) (a) (iii)

Statement—*Con.***SEC.**

financial— <i>Con.</i>	
consolidated.....	89
contents of.....	83(1) (a); 212(1) (a)
mailing of, to shareholders.....	93(1)
notes to.....	87; 216
reserves in, defined.....	91; 218
shareholders in private company entitled to.....	93(2)
statement of profit and loss in.....	83(1) (a) (i)
statement of revenue and expenditure in.....	212(1) (a) (i)
statement of surplus in.....	83(1) (a) (ii); 212(1) (a) (ii)
to be laid before annual meeting.....	83(1) (a); 212(1) (a)
financial, co-operative, of	
sent to member of.....	139(1) (d)
transmission of.....	139(1) (c)
filing of, by liquidator, on winding up of insurer.....	237(1)
insurer, of, copy of, to Superintendent.....	221
land held by corporation, of.....	289(3)
liquidation of, filed with court.....	237(1)
profit and loss, of	
contents of.....	84
financial statement, in.....	83(1) (a) (i)
revenue and expenditure, of	
contents of.....	213
financial statement, in.....	212(1), (a) (i)
statement of surplus in.....	212(3)
surplus, of	
contributed.....	85(2)
earned.....	85(3)
financial statement, in.....	83(1) (a) (ii); 212(1) (a) (ii)
general.....	214(2)
incorporation of, in statement of revenue and expenditure.....	212(3)
shareholders'.....	214(3)
untrue.....	339(1)
limitation of action.....	339(2)

Statement of account

production of, by liquidator.....	272(4, 5)
-----------------------------------	-----------

Stay

winding-up proceedings, of.....	278
---------------------------------	-----

Stock dividends

declaration of.....	62
---------------------	----

Stock exchange

registration of transfer of shares listed on.....	39(3)
validity of transfer of shares listed on.....	49(2)

Subscribers

cash-mutual fire insurance corporation, of, become shareholders.....	157
meetings called by, of proposed mutual fire insurance corporation.....	151(5)

Subscribers—Con. SEC.

- . meetings called by—*Con.*
- . . advertisement of.....151(5)
- . . election of directors at.....151(7)
- . . notice of.....151(6)
- . . quorum at.....151(8)

Subscription book

- . freeholders, of, re mutual fire insurance corporation....151(3)
- . mutual fire insurance corporation, re, to Provincial Secretary.....151(10)
- . owners of agricultural property, of, re incorporation of mutual weather insurance corporation.....153(2)
- . owners of live stock, of, re incorporation of mutual live stock corporation.....152(2)

Subsidiary company

- . defined.....90(1)
- . shares of holding company held by.....94

Subsidiary corporation

- . defined.....197(c)

Succession Duty Act

- . transmission of shares subject to.....52

Superintendent of Insurance

- . application of, re winding up of insurer.....227(1)
- . approval of, re incorporation of fraternal society.....190(3)
- . assent of, re retirement of guarantee capital stock....166(2)
- . by-laws of insurer to.....220
- . by-laws of mutual insurance corporation re number of directors filed with.....176(4)
- . disposal of unauthorized investments of insurer requested by.....208(15)
- . evidence of amalgamation agreement to.....149(2)
- . filing of statements with, by liquidator.....237(1)
- . notice of voluntary winding up of insurer to.....230(2)
- . notice re incorporation of joint stock insurance company to.....144(4)
- . resolution re distribution of endowment fund of fraternal society, assent to, by.....238(2)
- . statements of insurer to.....221

Supplementary letters patent—See also Letters patent

- . application for
- . . evidence on, re decrease of capital.....34
- . . regulations re.....335(b)

Supplementary letters patent—Con. SEC.

- . application for—*Con.*
- . . variation of terms of.....8
- . . application for, re company.....33
- . . authorization of.....33(2-5)
- . . time for.....33(6)
- . . application for, re corporation without share capital.....114
- . . . authorization of.....114(2, 3)
- . . . time for.....114(5)
- . . arrangement, confirmation by.....95(4)
- . . cancellation of, for cause...326(1) (c)
- . . change of name by.....12(2)
- . . company, re, by-laws not contrary to.....67(1)
- . . contravention of, by private company.....98
- . . corporation without share capital, re
- . . . by-laws not contrary to.....112(1)
- . . . directors *ex officio* in.....110
- . . . members, admission of, in.....107
- . . . members, number of, in.....106
- . . . membership, transferability of.....111(2)
- . . cumulative voting for directors authorized by.....64(1)
- . . decrease of capital of life insurance company by..146(2, 3)
- . . . provision re surplus in.....146(5)
- . . defects in form not to invalidate.....9
- . . election of directors in rotation provided by.....300(5)
- . . issue of.....4
- . . . payment of fees before.....336
- . . issue of, re companies.....33(1)
- . . issue of, re corporation without share capital.....114(1)
- . . issue of, re preference shares in series.....28(4, 5)
- . . meetings of shareholders outside of Ontario authorized by.....74(3)
- . . membership, classes of, in.....103
- . . mutual fire insurance corporation, of, powers limited by.....151(3)
- . . mutual livestock insurance corporation, of, powers of, limited by.....151(3)
- . . mutual weather insurance corporation, of, powers of, limited by.....153(3)
- . . notice of issue of.....10
- . . payment of dividends subject to.61(1)
- . . preference shares in series authorized by.....28(1)
- . . provisions re preference shares in.....27
- . . quorum of board of directors, provision re, in.....301(1)
- . . removal of directors, provision re, in.....65; 66
- . . votes provided for in.....29(2)

Supreme Court—See also Court SEC.

- . approval of reinsurance on winding up of insurer.....231(6)
- . filing of statements with, by liquidator.....237(1)
- . order of, re winding up of insurer.....227(1); 228(3)
- . petition to, on forfeiture of charter of insurer.....210(1)
- . removal of proceedings from county court to.....337

Surplus

- . co-operative corporation, of, distribution of.....133(1)
- . created by decrease of capital of life insurance company....146(5)

Surplus to policyholders

- . defined.....146(1)

Taxing officer

- . costs of winding up by court taxed by.....260

Testator

- . liability of estate of, re shares...56(2)
- . liability of executor for, re shares.....56(3)

Title

- . decision re, on application for rectification of books, etc.320(2)

Trade marks

- . power of company to acquire.22(1) (c)

Transfer agent

- . appointment of, by company.....41
- . branch, appointment of, by company.....41
- . signing of share certificates by....46

Transfer of shares

- . authorization by trustee re registration of.....47(4)
- . branch register of
 - . . . closing of.....42(5)
 - . . . effect of registration in.....42(2)
 - . . . registration in.....42(3)
 - . . . where kept.....42(1)
- . by-laws re.....67(1) (a)
- . consent of directors and transferee on registration of.....51(1)
- . co-operative corporation, of.....129(1)
- . corporation being wound up voluntarily, of.....249
- . liability of transferee for unpaid call on registration of.....51(4)
- . register of.....40
 - . . . closing of.....42(5)
 - . . . closing of, on declaration of dividend.....63
 - . . . effect of registration in.....42(2)
 - . . . registration in.....42(2)

Transfer of Shares—Con. SEC.

- . register of—Con.
 - . . . where kept.....42(1)
- . registration of
 - . . . after notice to shareholder...50(3)
 - . . . by-laws re.....67(1) (a)
 - . . . declaration of dividend, on.....63
 - . . . liability of company re.....50(4)
 - . . . notice to owner re.....50(1)
- . valid, on delivery of share certificate re share listed on stock exchange.....49(2)
- . valid only after registration....49(1)

Treasurer

- . insurance corporation, of, security of.....185(2)

Trial

- . issue, of, re rectification of books, etc.....320(3)

Trustee

- . authorization by, re transfer of shares.....47(4)
- . corporate, power to vote by proxy of.....77
- . corporation, on behalf of, restrictions on holding land by.....289(1)
- . director holding shares as, liability for wages.....73(5)
- . liability for shares in name of.....56(1, 3)
- . person holding shares as, liability on decrease of issued capital.....36(5)
- . power of company as.....22(1) (u)
- . power to vote of.....77

Trustee Act

- . application of, to liquidator...267(2)
- . investments of insurers under....209

Trusts

- . application of money paid re shares subject to.....47(3)
- . company not bound re execution of.....47(1)
- . corporation subject to.....286
- . discharge of company on payment re shares subject to.....47(2)
- . liability of
 - . . . decrease of issued capital, on...36(5)
 - . . . wages, for.....73(5)

Undertaking

- . power of company to sell...22(1) (m)

Vacancies

- . board of directors, in
 - . . . powers of directors.....296(4)
 - . . . when quorum in office.....301(2)
 - . . . when quorum not in office...301(3)
- . board of directors of joint stock insurance company, in.....224(2)

Vacancies—Con.	SEC.
. directors, among, of mutual insurance corporation.....	179
. interim, among directors of mutual insurance corporation.....	184(2)
. liquidator, in office of	
. . . voluntary winding up, in.....	246
. . . winding up by court, in.....	259(3)

Vice-president

. appointment of, by directors.....	302(2)
. chairman of meetings of shareholders, as.....	79(1) (e)

Voluntary winding up—See also**Winding up**

. account of liquidator in, when affairs wound up.....	279(1)
. action against corporation after commencement of.....	250
. application of provisions re winding up to.....	265
. authorized by resolution at meeting of shareholders.....	243(1)
. commencement of.....	248
. continuance of, for more than one year.....	252(2)
. corporation, of, authorization of.....	243(1)
. corporation to cease business on.....	249
. dissolution of corporation in	
. . . <i>ipso facto</i>	279(3, 4)
. . . order of court, by.....	280(1)
. inspectors, delegation of power of appointing liquidator to.....	245
. liquidator in	
. . . acceptance of shares by, as consideration for sale of business.....	255(1)
. . . appointment of.....	243(2)
. . . approval of sale of business by.....	255(2)
. . . compromise with contributories, debtors, etc., by.....	254
. . . compromise with creditors, etc., by.....	253
. . . list of contributories settled by.....	251(1)
. . . meetings of shareholders called by.....	252
. . . meeting of shareholders called by, when affairs wound up.....	279(1)
. . . payment from contributories demanded by.....	251(2)
. . . qualification of.....	243(2)
. . . removal of.....	247
. . . remuneration of.....	243(2)
. . . vacancy in office of.....	246
. resolution sanctioning sale of business of corporation in.....	255(3)

Voting

. applicants for insurance, of.....	174
. delegates, by.....	113(3); 137(2)
. directors, for.....	64(1)

Voting—Con.**SEC.**

. joint holders of shares, power of, re.....	78
. members, powers of.....	108
. . . members of co-operative	
. . . corporate, by.....	130(3)
. . . individual, by.....	130(1, 2)
. members of mutual insurance corporation, powers of.....	173
. mortgagee, power of.....	77
. mortgagor, power of.....	77
. participating policyholders, rights of.....	224(3)
. proxy, by.....	75(1)
. shareholders in arrears on call, by.....	79(1) (b)
. shareholders of co-operative	
. . . corporate, by.....	130(3)
. . . individual, by.....	130(1, 2)
. shareholders of mutual insurance corporation, of.....	165
. shareholders, rights of.....	29(1)
. trustees, power of.....	77
. unauthorized, by broker, etc.....	76(1)
. . . effect of.....	76(3)

Wages

. liability of directors for.....	73(1)
. liability of directors holding shares in trust for.....	73(5)
. priority of, in winding up of corporation.....	267(1) (b)

Ward

. liability of, re shares.....	56(2)
. liability of guardian for, re shares.....	56(3)

Warrants—See Negotiable instruments; Share warrant**Winding up—See also Voluntary winding up; Winding up by court**

. application of general provisions re.....	265
. application to court for direction re.....	274
. corporation, of, by order of court.....	256
. insurer, of	
. . . application of Part VII to.....	226(1); 227(3)
. . . extension of licence for purposes of.....	239
. . . order of court, by.....	227
. . . resolution re.....	230(1, 2)
. liquidator in	
. . . appointment of, on application of shareholder.....	266(1)
. . . powers of.....	269(1)
. . . proceedings, stay of.....	278
. . . proof of claims in.....	273
. . . where no liquidator in, estate of corporation under control of court.....	266(2)

Winding-up Act (Canada)	Sec.
. application of practice and procedure under.....	284

Winding up by court—See also**Winding up**

. action against corporation after commencement of.....	264
. application of provisions re winding up to.....	265
. commencement of.....	261
. dissolution of corporation in....	280(1)
. distribution by court of assets of corporation in.....	283(1)

Winding up by court—Con.	Sec.
. inspection of books ordered by court in.....	263(3)
. liquidator in	
. . appointment of.....	259(1)
. . discharge of.....	283(1)
. . removal of.....	259(4)
. . remuneration of.....	259(2)
. . vacancy in office of.....	259(3)
. list of contributories settled by court in.....	262
. payment from contributories required by court in.....	263(2)
. proceedings in.....	262
. when order may be made.....	256

INDEX

THE CORPORATIONS INFORMATION ACT

	SEC.		SEC.
Annual return		Penalty	
changes		default in making return	
authorized capital, in.....	3(5b)	required by Provincial Secretary....	4
board of directors, in.....	3(5a)	failure to file annual return.....	3(6)
corporation incorporated		failure to file prospectus.....	2(2)
before July 1st, 1907, of.....	3(9)	false statement in certificate.....	3(8)
exemption from filing,		limitation re prosecution.....	3(8a)
regulations re.....	6(h)	onus of proof.....	3(8b)
fee for filing		Private company	
exemption from.....	3(11)	certificate by, in annual return....	3(4)
regulations re.....	6(f)	Promoter	
filing of, date for.....	3(1)	defined.....	5(2)
regulations re.....	6(h)	liability of director for untrue	
information to be contained in....	3(1)	statements in prospectus.....	5(1)
regulations re.....	6(g)	Prospectus	
posting up of.....	3(5)	fee for filing, regulations re.....	6(d)
private company, of.....	3(4)	filing of.....	2
summary under the <i>Companies</i>		information to be contained	
<i>Act</i> (Canada) in lieu of.....	3(10)	in, regulations re.....	6(b)
time for delivering,		liability of director for untrue	
enlargement of.....	3(11)	statements in.....	5(1)
verification of.....	3(3)	verification of, regulations re.....	6(c)
regulations re.....	6(i)	Provincial Secretary	
Corporation		annual return to be filed with....	3(1)
annual return to be filed by.....	3(1)	certificate signed by, as proof....	3(14)
defined.....	1(a)	enlargement of time for	
prospectus to be filed by.....	2(1)	delivery of annual return by....	3(11)
return re affairs required from.....	4	exemption from fee on filing	
Corporations Act		annual return by.....	3(11)
corporation licensed under		prospectus to be filed with.....	2(1)
Part IX of.....	3(1, 2)	return required by.....	4
corporation subject to Part IV of.....	3(1)	Regulations	
securities defined in.....	1(c)	classes of corporations to	
Director		file prospectus, re.....	6(a)
liability of, for untrue		date for filing of annual	
statements in prospectus.....	5(1)	return, re.....	6(h)
Fees		defined.....	1(b)
exemption from, re annual		exemption from filing	
return.....	3(11)	annual return, re.....	6(e)
filing of annual return, for,		fee for filing annual return, re....	6(f)
regulations re.....	6(f)	fee for filing prospectus, re.....	6(d)
filing of prospectus, for,		information in annual return, re....	6(g)
regulations re.....	6(d)	information in prospectus, re....	6(b)
Insurance Act		Lieutenant Governor	
annual return by corporation		in Council, by.....	6
licensed under.....	3(1)	verification of annual return, re....	6(i)
Loan and Trust Corporations Act		verification of prospectus, re.....	6(c)
annual return by corporation		Return—See also Annual return	
registered under.....	3(1)	annual.....	3
Mortmain and Charitable Uses Act		required by Provincial Secretary....	4
corporation licensed under.....	3(2)	Securities Act	
		security defined in.....	1(c)
		Security	
		defined.....	1(c)

INDEX

THE MORTMAIN AND CHARITABLE USES ACT

Advancement of religion	SEC.	Charitable uses	SEC.
charitable use, as.....	1(2) (c)	conditions for assurance to.....	6
Agreement		defined.....	1(2)
public body, by, with assesor....	13(2)	land devised by will to.....	10; 12
Application		personal estate by will to.....	11
form of, regulations re.....	5(d)	Codicil—See Will	
licence, for, evidence on.....	4(3)	College	
. . regulations re.....	5(a)	assurance for.....	9(a)
Application of Act		Conditions	
existing charter or licence, to.....	15	assurance to charitable use, re.....	6
Assurance		licences, in, regulations re.....	5(c)
college, for.....	9(a)	Consideration—See Full and	
conditions of.....	6	valuable consideration	
consideration for.....	6	Corporation	
defined.....	1(1) (a)	disposal by, of land assured	
land by will, of.....	10; 12	in mortmain.....	2(5)
land, of, in mortmain.....	2	existing licence or charter of.....	15
personal estate by will, of.....	11	licence in mortmain issued to.....	4(1)
personal estate, of.....	6	notice to, re forfeiture of land....	2(2)
public bodies, to.....	13(1)	Court order	
public library, for.....	8(2) (c)	administration of	
public museum, for.....	8(2) (b)	charitable trust, for.....	14(1)
public park, for.....	8(2) (a)	Crown	
sale of land after.....	7(1)	forfeiture of land to.....	2(2)
school or schoolhouse, for.....	8(2) (d)	rent or service of land	
students, for.....	9(a)	forfeited to.....	3
trustees, to.....	9(b)	Death	
university, for.....	9(c)	assesor, of.....	6(c)
Assure		Definitions	1
defined.....	1(1) (a)	Easement	
Assesor		grant or reservation of.....	6(c) (iii)
agreement with		Education	
public body, by.....	13(2)	charitable use, as.....	1(2) (b)
benefits for, in assurance.....	6(b)	Evidence	
defined.....	1(1) (a)	application for licence, on.....	4(3)
Attorney General		. . regulations re.....	5(a)
petition certified by.....	14(2)	taken under oath.....	4(3)
Cessation		Fees	
charge, of, registration of.....	2(4)	licence, for.....	4(4)
form of, regulations re.....	5(e)	Forfeiture	
Charge		disposal of land free from.....	2(5)
cessation of, registration of.....	2(4)	land, of	
notice deemed, on registration....	3(3)	Crown, to, after notice.....	3
release of, registration of.....	2(4)	. . effect of, on rent or service.....	3
release or vacation of.....	2(4)	Charitable trust	
Charitable trust		breach of.....	14(1)
breach of.....	14(1)	court order for	
court order for		administration of.....	14(1)
administration of.....	14(1)		

- Full and valuable consideration** SEC.
 . assurance, for.....6
 . defined.....1(1) (b)

- Government of Ontario**
 . assurance to.....13(1)

- Land**
 . assurance of, for certain purposes....9
 . defined.....1(1) (c)
 . devised by will.....10; 12
 . mortmain, in—*See Mortmain*
 . notice registered against.....2(2)
 . rent or service of, when
 forfeited to the Crown.....3
 . retention of.....7(3); 12
 . sale of—*See Sale of land*
 . vested in Public Trustee...7(2); 10(2)

- Licence in mortmain**
 . application for, evidence on....4(3)
 . . regulations re.....5(a)
 . existing, effect of Act upon.....15
 . fees for.....4(4)
 . issue of.....4(1)
 . land assured under authority of...2(1)
 . regulations re.....5(c, d)

- Lieutenant Governor**
 . licence in mortmain issued by...4(1)
 . powers of, exercised by
 Provincial Secretary.....4(2)

- Lieutenant Governor in Council**
 . fees for licences prescribed by...4(4)

- Limitations**
 . licences, in, regulations re.....5(c)

- Mines or minerals**
 . grant or reservation of.....6(c) (ii)

- Mortmain**
 . land assured in.....2
 . . disposal of.....2(5)
 . . forfeiture of, after notice.....2(2)
 . . licence for.....4(1)
 . . prohibition against.....2(1)

- Municipal corporation**
 . assurance to.....13(1)

- Museum—*See Public museum***

- Nominal rent**
 . grant or reservation of.....6(c) (i)

- Notice**
 . forfeiture of land, re
 . . corporation, to.....2(2)
 . . deemed charge.....2(3)
 . . registration of.....2(2)
 . form of, regulations re.....5(d, e)

- Peppercorn**
 . grant or reservation of.....6(c) (i)

- Person** SEC.
 . licence in mortmain issued to....4(1)

- Personal estate**
 . assurance of, for
 purchase of land.....6; 11; 12

- Petition**
 . Supreme Court, to, re
 charitable trust.....14

- Possession**
 . immediate, assurance re.....6(a)

- Provincial Secretary**
 . compliance with Act
 established to satisfaction of...4(3)
 . evidence under oath before.....4(3)
 . powers of Lieutenant
 Governor exercised by.....4(2)

- Public hospital board**
 . assurance to.....13(1)

- Public library**
 . assurance for.....8(2) (c)

- Public library board**
 . assurance to.....13(1)

- Public museum**
 . assurance for.....8(2) (b)
 . defined.....8(1) (b)

- Public park**
 . assurance for.....8(2) (a)
 . defined.....8(1) (a)

- Public trustee**
 . land vested in.....7(2); 10(2)
 . sale of land by.....10(2)

- Purchase**
 . land, of, personal estate
 by will directed to.....11; 12

- Regulations**
 . evidence on application for
 licence, re.....5(a)
 . form of application, re.....5(d)
 . form of cessation, re.....5(e)
 . form of notice, re.....5(e)
 . form of release, re.....5(e)
 . licences, re.....5(c, d)
 . Lieutenant Governor in
 Council, by.....5
 . notices, re.....5(d)

- Release**
 . charge, of.....2(4)
 . . registration of.....2(4)
 . form of, regulations re.....5(e)

- Relief**
 . poverty, of, as charitable use..1(2) (a)

Rent	SEC.	Statute	SEC.
. land forfeited to the Crown, re.....	4	. land assured in mortmain under authority of.....	2(1)
Representative		Stock in public funds	
. corporation, of, in Ontario, regulations re.....	5(b)	. assurance of.....	6(c)
Right of entry		Students	
. benefit of assuor, for.....	6(c) (v)	. assurance for.....	9(a)
Sale of land		Supreme Court	
. assurance, after.....	7(1)	. petition to.....	14
. assured for school or schoolhouse.....	8(3)	Supreme Court judge	
. assured to certain public bodies..	13(3)	. powers re sale of land after assurance.....	7; 8(3); 10(1); 13(3)
. devised by will.....	10	. retention of land sanctioned by.....	7(3); 12
. Public Trustee, by.....	10(2)	Trustees	
School		. assurance to.....	9(b)
. assurance for.....	8(2) (d); 9(a)	University	
. defined.....	8(1) (b)	. assurance for.....	9(a)
. sale of land assured for purpose of.....	8(3)	Vacation	
School board		. charge, of.....	2(4)
. gift of property to.....	13(1)	Will	
Schoolhouse		. defined.....	1(1) (d)
. assurance for.....	8(2) (d)	. land devised by.....	10; 12
. defined.....	8(1) (c)	. personal estate by.....	11; 12
. sale of land assured for purpose of.....	8(3)	. sale of land devised by.....	10
Service of process			
. representative of corporation, on, regulations re.....	5(b)		

INDEX

THE CORPORATION SECURITIES REGISTRATION ACT

Affidavits	SEC.	Books	SEC.
. corporations, officers, etc., by	3; 4	. inspection of	11
. discharge, for	9(2, 4)	Certificate of discharge	
. endorsement on		. filing of	9(2)
. discharge, for	9(4)	Certificate of filing	
. filing, for	3(2)	. issued by Provincial Secretary	10(1)
. irregularity in, effect of	8	. <i>prima facie</i> evidence, as	10(2)
. registration, for	2(2); 3; 4	Charges—See Mortgages and charges	
Agent for corporation		Chattels	
. affidavit for		. defined	1(d)
registration	2(2); 3(1); 4	Corporations	
Application of Act		. affidavit of <i>bona fides</i> of	2(2); 3; 4
. charges and mortgages, to	13; 14	. defined	1(e)
Assignee		. execution under corporate seal	9(2)
. certificate of discharge signed by	9(2)	Creditors	
Assignment of book debts		. defined	1(f)
. affidavit for		. mortgage, charge void against, when	2(1)
. discharge of	9(2, 4)	Debentures—See Bonds and debentures	
. registration of	2(2); 3	Definitions	1
. application of Act to	13	Discharge	
. certificate of, filing of	10(1)	. mode of	9
. defined	1(a)	Endorsement	
. discharge of	9	. instruments, on, when filed	6; 9(4)
. endorsement on		Errors	
. discharge, for	9(4)	. effect of	8
. filing, for	6	Evidence	
. filing of assignment of	9(1)	. certificate of filing as	10(2)
. inspection of	11	Execution	
. irregularity in, effect of	8	. affidavit re	2(2); 3
. made before Act passed	14	. evidence of	10(2)
. registration of	2(1, 2)	. irregularity in, effect of	8
. time of effect of	2(3)	Fees	
Assignment of Book Debts Act		. certificate of filing, for	10(1)
. application of	15	. inspection of books, for	11
Assignor		. set by Lieutenant Governor in Council	12
. defined	1(b)	Bills of Sale and Chattel Mortgages Act	
Bankruptcy Act (Canada)		. application of	15
. application of	1(f)	Bonds and debentures	
Bills of Sale and Chattel Mortgages Act		. copy in affidavit	3(2) (a)
. application of	15	. mortgage, in, registration of	2
Bonds and debentures		Book debts	
. copy in affidavit	3(2) (a)	. assignment of, defined	1(a)
. mortgage, in, registration of	2	. defined	1(c)

Filing	SEC.	Officer of corporation	SEC.
. certificate of	10	. affidavit of	3; 4
. certificate of discharge, of	9	Omissions	
. instruments with Provincial Secretary	3; 9	. effect of	8
Grantee		. rectification of	7
. affidavit of <i>bona fides</i>	2(2)	Order	
Holiday		. rectifying omissions, misstatements ..	7
. expiry date on	5	Partial discharge	
Inspection		. mode	9(2)
. books of Provincial Secretary	11	Provincial Secretary	
Instruments		. assignments filed with	9(1)
. certificate of filing of	10(1)	. certificate of discharge issued by ..	10(1)
. discharge noted on	9(4)	. fees of	12
. filed with Provincial Secretary	3	. inspection of books of	11
. endorsement on	6	. instruments filed with	3
. irregularity in, effect of	8	. proof of signature of, not required ..	10(3)
. registration of	2; 3	Register	
Judge		. kept by Provincial Secretary	9(3)
. order re omissions, misstatements ..	7	Registration	
Lieutenant Governor in Council		. assignment of book debts, of ...	2(1, 2)
. fees set by	12	. . time of effect of	2(3)
Memorandum		. mode of	3
. endorsed on instruments	6; 9(4)	. mortgage, of	2(1, 2)
. entered in register	9(3)	. . time of effect of	2(3)
Misstatements		. time for	3
. effect of	8	. . extension of	7
. rectification of	7(1)	Searches	
Mortgagee		. fees for	11
. affidavit of <i>bona fides</i>	2(2)	Signature	
. certificate of discharge signed by ..	9(2)	. Provincial Secretary's need not be proved ..	10(3)
Mortgages and charges		Subsequent purchasers or mortgagees	
. affidavit for defined	1(h)
. . discharge of	9(2, 4)	. mortgage, charge void against, when ..	2(1)
. . registration of	2(2); 3	Time	
. application of Act to	13	. filing, for	5
. certificate of filing	10(1)	. registration, for	3(1)
. discharge of	9	. . extension of	7
. endorsement on		Trust deed	
. . discharge, for	9(4)	. mortgage, charge, in, registration of ..	2
. . filing, for	6	Trustee	
. filing of assignment of	9(1)	. affidavit of <i>bona fides</i>	2(2)
. inspection of	11	. certificate of discharge signed by ..	9(2)
. irregularity in, effect of	8	Winding-up Act (Canada)	
. made before Act passed	14	. application of	1(f)
. registration of	2(1, 2)		
. . time of effect of	2(3)		
Mortgagor			
. defined	1(g)		



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